

[28th August 1926]

[*Note.*—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II

THE MALABAR TENANCY BILL—*cont.**New clause after clause 5.*

11-33 a.m. * Mr. K. PRABHAKARAN TAMPAN :—“ Sir, I move that the following be added as a new clause after clause 5 :—

‘ 6. *Nothing in this Act shall apply to lands purchased in janmam right after the year 1852.* ’

“ It is said that after the year 1852, the law regarding land tenures in Malabar has undergone a radical change. Since 1852 many janmam lands have changed hands. They have been purchased on the distinct understanding that they (the purchasers) would be able to redeem the kanam holdings and reduce the janmam lands they purchased into verumpattam. The lands that were demised to verumpattam tenants were also purchased on the understanding that they would be able to recover from the tenants not only the same rent as they were fetching at the time of the purchase, but also a competitive rent, if possible. The purchase value was paid on the basis of the annual rent; generally it was 20 or 25 times the annual rent. Now, under section 14 if a land is let after the passing of the Act, the tenant need pay only one-third of the net produce and the Government assessment on the land. Therefore those janmis who purchased the lands and paid their value on the basis of the rents they were then fetching would be put to material loss. For instance, if a man paid Rs. 20,000 in the hope that it would fetch him 1,000 paras of paddy, now he will have to be content with 500 paras of paddy only; because one-third of the net produce will be only about 500 and nothing more. This is all he would get on the sum of Rs. 20,000 he invested. The purchaser will, therefore, be hard hit. It is the duty of the legislature to protect the interests of the people who had advanced large sums of money relying on the custom and the law of the land. But instead of doing that, the legislature is injuring them. That is not the real function of the legislature. I therefore submit that those purchasers of janmam lands after the year 1852 should be protected. The late Mr. Justice Sundara Ayyar also made a suggestion like that in his report on the working of the Compensation for Tenants' Improvements Act. He said that the situation had become much more complicated than it was thirty years ago as many persons had purchased janmam lands in the belief that they would be able to evict the kanam tenants. It would be unfair to expropriate them except on payment of compensation. I would therefore urge that the rights of these new janmis should be protected.”

* Mr. V. MADHAVA RAJA :—“ I second the amendment.”

* Diwan Bahadur M. KRISHNAN NAYAR :—“ Sir, I oppose the amendment for obvious reasons. My hon. Friend dealt with both kanam tenures and verumpattam tenures. I shall just give one illustration of a sale to show why I oppose the motion. There is a very rich janmi family, called Elaya Chandidam . . . in Palghat taluk. They sold some of their lands to another rich janmi family thirty or forty years ago. Long before the sale, at the time of the sale and subsequent to the sale, the lands which were sold were held on kanam tenures. We do not know how long they have been so held ;

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probably for hundreds of years. It was only the janmam right that was sold, whereas the kanam right remained with the kanamdars. Under clause 7, since these kanam tenures came into existence before the year 1852, the date mentioned in the amendment, the kanamdars would be entitled to permanent rights of tenure. The result of this amendment will be to deprive the large number of kanam tenants who have been holding the lands for hundreds of years in this case, of the benefits conferred by the passing of clause 7. But this is only one instance; there are many other instances where the result of the amendment would be to deprive the kanamdars holding lands even before 1852 of the right of occupancy which has been granted by this Council. It would amount to nullifying clause 7 as passed by the House.

“With reference to verumpattam tenants, that is, the actual cultivators, the objection is all the stronger. The argument put forward by my hon. Friend in support of his amendment was that the purchasers of janmam rights with verumpattam tenures under them calculated that they would be getting a certain rate of rent. Again, Sir, this Council has in clause 14 come to the conclusion that verumpattam tenures coming into existence after the passing of the Act, whether holding under janmi or kanamdars are liable to pay only one-third of the present rent. The Council has deliberately adopted that policy whether wisely or unwisely. That applies to kanam lessors as well as janmi lessors. It does not matter whether it applies to lands purchased before 1852 or since 1852. There is no reason why a particular class of janmis alone who came into existence after the year 1852 should be freed from the operation of the Act. That was not the policy of the Council. I submit there is absolutely no reason whatever for accepting the amendment with reference to verumpattam tenures also. This Council has deliberately laid down that in respect of all leases whether existing now or made hereafter, all cultivating tenants should have permanent rights of occupancy. The result of the amendment will be to deprive a large number of cultivating tenants of the rights of occupancy which they would otherwise get.”

* Mr. K. PRABHAKARAN TAMPAN :—“Sir, my hon. Friend waxed eloquent about the rights of the kanamdars who had been long in possession; but not a word did he say about the purchaser who had to shell out large sums of money in the hope that he would get a sufficient return for it. He relied on the existing law and custom of the country, and he should be protected by the State. My hon. Friend, Mr. Krishnan Nayar, did not at all refer to that aspect of the question. Are the vague interests of the kanamdars to be preferred to those of the man who has invested large sums of money on the land? Mr. Krishnan Nayar stated that the deliberate policy of the Council was to protect the actual cultivator. Sir, if you will not rule me out of order, I will say that the policy of the Council has been not to protect the actual cultivator but to vote with my hon. Friend, Mr. Krishnan Nayar, without any regard to the merits of the question. (Diwan Bahadur M. Krishnan Nayar: Order, order.) The House is welcome to do what it likes, but as the janmi representative in the House I am bound to do my duty and point out all aspects of the question. If the House decides against me, I do not stand in its way.

Rai Bahadur T. M. NARASIMHACHARLU :—“Sir, the hon. Member, Mr. Krishnan Nayar, wants to be consistent in his policy of depriving other people's rights. That is very good; even there to be inconsistent is not very laudable. The point under consideration is this. Subsequent to 1852, on a

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certain understanding of the law and the rights of the janmis, many people purchased janmam rights in the land by paying large sums of money. In the present Act it is proposed to give permanent occupancy rights to all tenants. But Mr. Krishnan Nayar says, 'We have provided for renewal fees.' Not only subsequent to 1852 but even prior to that the vendor has been getting renewal fees."

* Diwan Bahadur M. KRISHNAN NAYAR:—"May I ask what is the relevancy of this to the matter under discussion?"

11-45
a.m.

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, it is said that the purchasers of janmam rights after 1852 do not lose anything. I say, there is a loss to the purchaser. I say, the renewal fees existed both before 1852 as well as subsequent to that date. Therefore, it is not a new thing. The question is 'What is to become of the money we have paid in purchasing the janmam right?' We get all the rights of the janmam holder. By virtue of this Act, with a stroke of the pen, you have deprived him of the rights he has thus acquired not only to the land but to the money also. The question, therefore, is 'Can you do so without compensating him for it?' If this legislature is just, it will pay him the money he has paid. If it wants to be unjust, it will affirm the reply given by Mr. Krishnan Nayar."

Mr. J. A. SALDANHA:—"We are always coming back to the point of compensation. My friend, the representative of the janmis . . ."

* Mr. K. PRABHAKARAN TAMPAN:—"I never said a word about compensation."

Mr. J. A. SALDANHA:—"I refer to the last speaker. The people are suffering. There was no doubt some sort of law laid down by the High Court. The question is whether that law was acquiesced in by the people. They have persistently protested against this law, and the result is that the Government had to interfere and appoint commission after commission to investigate into their grievances, and reports have been issued. Whether this law was right or wrong, the masses never acquiesced in it; they said, if I may repeat, what an Irishman once said, 'Your law is an ass, Sir, and it deserves to be kicked.' I use the strong language to convince you that the law is wrong. I will give a parallel instance where such a law was considered to be no law, and Government in legislating on the matter did not think such legislation confiscatory. Take, for instance, the Bengal Tenancy Act. It took Government 50 years and more to recognize the great injustice done to the tenants. But, at last, the Government did recognize the injustice and passed the Bengal Tenancy Act. There a tenant who had been 12 years in possession of a particular piece of land was recognized as a permanent tenant. They passed a further amendment to prevent the zamindars outwitting the tenants, and the amendment was to this effect, that a cultivator who had been continuously in possession and had been cultivating any piece of land within the same village was also entitled to permanent tenure."

* The hon. the PRESIDENT:—"But, this proposal applies to janmam rights. The hon. Member is speaking on behalf of the tenants."

Mr. J. A. SALDANHA:—"Like King Charles' head the idea of compensation crops up again and again. I want to show, Sir, that these people purchased their rights with open eyes as to the state of the law. That law was questioned by the people. There had been persistent agitations by the people, who never acquiesced in it. But, if they purchased with their eyes

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open to all this state of things, why should these purchasers be now compensated? Why should they be treated differently and be paid a special sort of compensation?"

* The hon. Mr. T. E. MOIR :—"What does the hon. Member mean by 'open eyes'? I do not understand his expression."

Mr. J. A. SALDANHA :—"To paraphrase it, it means 'eyes wide open'."

* The hon. Mr. T. E. MOIR :—"To what, Sir?"

Mr. J. A. SALDANHA :—"To the agitation of the majority of the cultivators and the masses of the people in Malabar. They were agitating for an amendment of the law, whatever it might have been, and that has been going on for the last fifty or sixty years. The janmis must have known from the agitation by the people, that they had grievances, and that they were struggling rightly against this state of things, and trying to get the law amended. They knew that the people were not estopped from questioning the state of things, because there was some law. The view of the High Court and other courts was questioned by the people. All this they knew, but they were blind or made themselves blind."

* The hon. the PRESIDENT :—"I think the hon. Member said that their eyes were wide open,—the hon. Member has thrice asserted it!"

Mr. J. SALDANHA :—"I would just refer to another instance, where a tenancy law was passed and no compensation was given because the law as it existed was questioned by the tenant class. That was in Bombay in 1881. The Bombay Legislature passed an Act called the Khoti Settlement Act, an Act very much similar to this. There, a tenant who had been cultivating a land for a certain period was recognized as a permanent holder without any compensation being paid to the landlord. As a matter of fact the Bombay Government had committed the same mistake as the Bengal Government, with the result that a large number of tenants were evicted. But in spite of all that an enactment was passed which recognized these people as permanent tenants without compensation. In this case also, therefore, I hope this point of compensation will not be urged and as I pointed out already there is ample compensation already provided for any loss or damage suffered. We give only a permanent occupancy right and the right of renewal without liability to a renewal fee. And the renewal fee has been so increased that it will provide ample compensation for any sort of loss."

* Rao Bahadur A. S. KRISHNA RAO PANTULU :—"I am unable to follow my hon. Friend from South Kanara when he advances the proposition to the effect that, because there was an agitation and people did not acquiesce in the law and because they purchased with eyes open, they deserve no consideration. I believe, Sir, that these are arguments which cannot be accepted in the consideration of the question which has been raised before the House. My hon. Friend from Cuddapah has made the position quite clear that in a case of this description, it is not safe or desirable to allow the provisions to remain, without the payment of an adequate compensation. That is a question which ought to be considered by this House. I am not able to understand why the representative of the janmis at once jumped up when the question of compensation was referred to, and asserted that he did not suggest compensation."

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* Mr. K. PRABHAKARAN TAMPAN :—"If compensation" was allowed in this Bill, there was no necessity to move my amendment. Simply because it was not allowed I am doing all these."

* Rao Bahadur A. S. KRISHNA RAO PANTULU :—"The hon. Member in charge of the Bill, in opposing the amendment, has not considered the possibility of meeting the claim put forward by any suggestion of compensation. If he was in a position to consider that, that would have been more satisfactory. While dealing with the amendments, he has stuck fast to his gun and opposed almost every amendment. It would be better he considers if some modifications cannot be introduced in these provisions."

Mr. K. P. RAMAN MENON :—"Mr. President, Sir, I did not think of intervening in this debate. I think this is a minor matter, which does not deserve so many speeches on either side. With reference to the purchases made after 1852, they have paid money and Mr. K. Prabhakaran Tampan very plausibly says that having paid for them, they must be compensated. He says, 'How can you deprive them of their rights?' That is going back to the question of compensation, which had been before the House for two or three days. If compensation is to be given to one particular class of janmis, why should it not be given to other classes as well? This House, by a very strong vote, passed that no compensation is to be given to any class of janmis."

"The question of the right of possession arises here. That will be going back upon the vote that has been recorded. That is certainly not possible."

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noon.

"Then looking closer into the actualities of the case, with regard to the purchase of lands after the year 1852, what is the basic principle you have laid down with regard to permanency right to the actual cultivators? It is not a question whether they have been in possession for twenty years, twelve years or six years; this House has been very tender to verumpattamdars and has always said that all the actual cultivators, whether they are in possession to-day, whether they will be in possession hereafter or whether they have been in possession for one hundred years, are put under the same category for the reason that they spend labour on the land. That is the basic principle on which this House has given occupancy right to the actual cultivator. How the accident that the land was purchased after 1852, affects that principle, I ask. The principle laid down is sought to be given the go-by when there is the accident of purchase in 1854 or any other year. With reference to this principle there was a very strong debate in the Select Committee and the principle that was upheld by the Select Committee and by this House is that the actual cultivator, whether he is a kanamdar or verumpattamdar or any other tenant, deserves protection without any reference to the question as to when he got possession. That position has been made abundantly clear. I affirm there is no reason to go back on that."

"Then again, with reference to the verumpattamdar and the kanam tenants in occupation of the land, this question of the actual cultivator comes in. What is the reason for the difference made between clauses 6 and 7? It will be found that there is considerable difference between an actual cultivating kanamdar and a kanam tenant not in actual cultivation. The reason for the difference is the same as in the case of verumpattamdar. He is the man who spends labour on the land. I ask whether the question

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when he purchased the land comes in if he is the actual cultivator. Certainly not. The proposition of the hon. Member, Mr. Prabhakaran Tampan, negatives that position altogether. Therefore it cannot be accepted.

"Then again with reference to the non-cultivating kanam tenants, what is the position taken in clause 7? The decision in clause 7 is that a non-cultivating kanam tenant, if his tenancy dates back to 1853, is entitled to certain rights. If you say that the lands purchased after that date should be exempted, are you not going back upon the provision in clause 7? The practical result would be this. Every clause that has already been passed could be re-agitated and the question of compensation thrashed out again."

* Mr. K. PRABHAKARAN TAMPAN :—"I gave notice of this amendment not after clause 7 was passed, but long before that."

Mr. K. P. RAMAN MENON :—"That fact strengthens my hands further. The hon. Member should not have moved this amendment having known the sense of the House. The House has negatived impliedly this amendment of his when clauses 6 and 7 were passed. Therefore the hon. Member should not have moved this amendment. That is due to the House from the hon. Member. If not, are you not going back on the provisions of clauses 6 and 7? Looking at the question from the point of view of the actual cultivating kanamdar or verumpattam tenant or non-cultivating verumpattam tenant, there is absolutely no case made out for the tenants who have come into existence after the year 1852. I submit therefore that this House should negative this motion."

* Rao Bahadur C. V. S. NARASIMHA RAJU :—"Sir, the proposition laid down by the hon. Member, Mr. Prabhakaran Tampan, is that in the case of janmis who purchased the janmam rights subsequent to the year 1852, the Act should not be made applicable. I think it is inconsistent so far as the purchase of janmams after 1854 and the verumpattam tenants are concerned. He himself stated at the several stages of the Bill that so far as he was concerned, the verumpattam tenants might have rights of occupancy and I do not see any reason why . . ."

* Mr. K. PRABHAKARAN TAMPAN :—"May I explain myself? I did not say so unqualifiedly. I said that I was willing to give occupancy rights to the actual cultivators subject to certain conditions. I did not make any unqualified statement as the hon. the Leader of the Opposition thinks."

* Rao Bahadur C. V. S. NARASIMHA RAJU :—"I do not remember anything about the qualifications he attached to his statement as far as verumpattam tenant was concerned. No doubt, he did attach some conditions regarding the non-cultivating kanamdar. He did not mention any condition as regards the cultivating tenants. He made a statement and he repeated it."

"Regarding verumpattam tenants, the idea presented to this House and the Select Committee was that the rents that are being paid should be presumed to be reasonable rents. Even the amendment of the Government that two-thirds of the rent should be fixed was not acceptable to him. So, the position he has taken so far as the verumpattam tenants are concerned is inconsistent with the position taken by this House."

"Regarding the kanam tenant, I am in perfect agreement with him. It is only a counterpart of the proposition that the assignee kanamdar shall not have the rights of occupancy as against the janmi. They stand on the

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same footing. When we discussed the case of the transferee kanamdar, it was pointed out that the value he pays is the value of the unexpired portion of the kanam and there is no justification to confer occupancy rights to him. What is the element that has to be taken into consideration in fixing the value? Is it the annual income which the janmi gets when he sells the land or the probable increase which he gets when he terminates the kanam? That has to be taken into consideration in fixing the value. It is constantly being asserted by the janmis that the value fixed is the capitalized value of the amount he receives. On the other hand, it is being asserted on behalf of the kanam tenants that no such high value is paid and as far as I know, there is no material before the House to settle which assertion is correct. If the land gets the capitalized value, the janmi is not entitled to compensation. If it gets more, he is entitled to compensation.

"It has been asked by the Expert Member why we should fix the year 1852. We know that in the year 1852 the courts well recognized that a kanam tenure is a redeemable tenure. This point distinguishes the transactions between the janmi and the kanamdar and as to the mentality of the persons who entered into these transactions. Therefore there is much force in adhering to the year 1852. The question is whether the purchaser of a janmam right is paying more than he gets. It is not possible to come to a conclusion on that point. Therefore it is better that the right of the purchaser should be respected but at the same time I may submit that this is only a counterpart of the other proposition that the transferee kanamdar does not stand on a different footing from the kanamdar and, as far as this House is concerned, the vote already cast regarding the case of the transferee kanamdar does, I think, apply to this case."

Sri Man BisWANATH DAS Mahasaya :—"Sir, I am sorry I cannot support the motion of my hon. Friend Mr. Prabhakaran Tampan. This hon. House after a lot of consideration has much improved the position of the janmi and has added something more to his rights than what the Select Committee gave them. Looking at section 4 we find that North Malabar has been excluded from the operation of the Bill. Section 5 exempts janmam lands to the extent of 10 acres. Section 3 excludes lands that are given for fugitive cultivation. Not being satisfied with these concessions the hon. Member Mr. Raman Menon moved and the Council exempted lands given to plantations from the operation of the Bill. Even these do not satisfy the land-owning class. My submission to this hon. House is that no amount of concession would satisfy that class who are in enjoyment of rights; they have a sort of vested interest. In enacting tenancy legislation I would request hon. Members of the House to be liberal to the tenants as they are illiterate and ignorant; and are not able to safeguard their interests; in most cases, they do not have the money and the learning to assert their rights in courts of law. Therefore too much importance should not be attached to the year 1852; it is the legitimate duty of the Council to safeguard and protect the tenants' rights. Again, the hon. Member wants to repeat Ramayana without Rama or Sita. If the House accepts this motion, it will take away practically the occupancy rights given to the tenant under clauses 6 and 7. I would therefore appeal to the hon. Member Mr. Prabhakaran Tampan as an enlightened janmi not to pursue the matter further. I think the reply given by the hon. Member from Vizagapatam will satisfy him. I am sorry that he should have brought forward such important amendments in the third reading of the Bill . . ."

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* The hon. the PRESIDENT :—" This is only the second reading of the Bill."

Sriman BISWANATH DAS Mahasaya :—" The question of compensation has come before the Council too soon and too many times than we could think of."

" I fail to see, Sir, why compensation at all times and at all seasons should be harped upon by certain members of this Council. I cannot understand how the position of tenants in Malabar differs very much from the proprietary tenants in the Madras Presidency. I would take back the hon. Members of this House to the discussion on the Estates Land Act of 1908 when the question of the tenants in Malabar was raised and I believe my hon. Friend from Malabar, the author of the Bill, will remember that he was one of the stout opponents of giving the tenants their rights in Malabar under the Estates Land Act. That being the case, I do not find any case has been made out at this stage to deny the tenants of Malabar their elementary rights, that is, the rights of occupancy. No janmi after all cultivates the land, but it is the tenant that cultivates and I do not think we will be justified in denying the tenants of Malabar the rights of occupancy. I would therefore request my friend the janmi representative to withdraw his motion or I would appeal to the hon. Members of this House to reject the motion. I therefore oppose the motion."

* Mr. V. MADHAVA RAJA :—" I support Mr. Prabhakaran Tampan's motion. The very same arguments were used by the hon. the Mover of the Bill when we were considering the case of kanamdars and cultivators of lands before 1852. When that question was discussed, he said that the permanent occupancy rights should be given not only to the hereditary old tenants but also to the assignees and purchasers. Now when the question of janmis who have purchased janmam rights after 1852 comes, the very same argument is urged that those janmis should not get the real value for the money they have invested. When the question of purchasers of lands before 1852 comes, the very same Mover stated that those tenants had invested a lot of money and that it would be a great hardship if they were not allowed their rights. He also stated that the janmi had no business to purchase the land after knowing that there was agitation in the country, but he has invested a lot of money on the purchase of janmam lands. He does not even get the actual rent. Although while purchasing the land he was made to understand that the land would give a thousand paras of paddy he gets only 10 to 15 per cent less. Suppose a janmi purchased a land worth about Rs. 20,000. If a Bill of this kind is passed, the land will not fetch a price of even Rs. 2,000 or Rs. 3,000, and the janmi who has invested money becomes a loser. Even if we are to accept this amendment, only a minor portion of the evil will be remedied."

The amendment was put to the House and lost.

Clause 1.

Sub-clause (1).

* Diwan Bahadur M. KRISHNAN NAYAR :—" We may perhaps now go to clause 1. We have finished all except clauses 1 and 2. Before we go to Mr. Uppi Sahib's amendment, may I, with the permission of the House, move amendment No. 4 which stands in the name of the permanent Law Member the hon. Sir Ramaswami Ayyar? (The hon. the President : 'Yes'.)"

[Mr. M. Krishnan Nayar]

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"I beg to move that this Act may be called the Malabar Tenancy Act of 1926."

Mr. K. P. RAMAN MENON :—" I second the motion."

The motion was put to the House and carried.

Sub-clause (2).

* Diwan Bahadur M. KRISHNAN NAYAR :—" Before the hon. Members Messrs. Uppi Sahib and Tampam move their amendments, viz., Nos. 5 and 6, I rise to a point of order. My friend's amendment is :

'For the existing sub-clause, substitute the following :

"It extends to Calicut, Ernad, Walluvanad, Ponnani and Palghat taluks of Malabar district and British Cochin, Anjengo and Tangasseri"

"My friend says that it should extend only to the taluks of Calicut, Ernad, Walluvanad, Ponnani and Palghat, which means the whole of South Malabar. In other words, it extends to South Malabar and exempts North Malabar completely. That is my friend's amendment. My point of order is this : clause 4 which has already been passed by this Council acts as a bar to the moving of this amendment."

* Mr. K. PRABHAKARAN TAMPAN :—" My hon. Friend cannot anticipate what Mr. Uppi Sahib has got to say. He has not moved it formally. When it is done so, you can allow Mr. Krishnan Nayar to rise to a point of order. I do not think he can now do so."

Mr. K. UPPI SAHIB :—" I thought I could hear the hon. Member Mr. Krishnan Nayar before I move my amendment.

"Sir, I move that for the existing sub-clause the following be substituted :

'It extends to Calicut, Ernad, Walluvanad, Ponnani and Palghat taluks of Malabar district and British Cochin, Anjengo and Tangasseri.'

"My reason for this amendment is that, as Mr. Krishnan Nayar has already told this House, it practically means to exclude North Malabar from the operation of this Bill."

* Diwan Bahadur M. KRISHNAN NAYAR :—" Clause 4 which has already been passed by this Council is this : 'Nothing in this Act shall affect lands in North Malabar held on kanam tenure' meaning thereby, a necessary implication, that it affects all other lands in North Malabar, except those that are held on kanam tenure. I go further : paragraph 2 of that clause says : 'Nomipal kanams which are charged over kuzhikanams shall not be deemed to be kanams for the purpose of this section.' That makes it specifically clear, even positively and affirmatively, that these kuzhikanams generally in North Malabar are governed by the provisions of this Act. That is the meaning of clause 2. So, under that clause which is already accepted by this Council, kuzhikanam lands in North Malabar and leases of paddy lands according to the amendment carried yesterday are all governed by the provisions of this Act ; so that practically this clause already makes the provisions of this Act applicable to lands in North Malabar, except of course certain kanam lands. I, therefore, submit that we are not in a position to consider this amendment which is directly against the clause that has already been passed by this Council."

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* The hon. the PRESIDENT :—“ Are there any lands held on any other tenure except those mentioned in clause 4 ? ”

* Diwan Bahadur M. KRISHNAN NAYAR :—“ Generally, lands are held either on kanam tenure or kuzhikaram or leases. I do not think there are lands held on any other tenure. Of course, there are lands which are held on pure mortgages. This Bill does not deal with mortgages. It is, therefore, inconsistent now to consider this new provision.”

* Mr. T. R. VENKATARAMA SASTRIYAR (*Advocate-General*) :—“ This is a matter of considerable importance which frequently crops up in dealing with amendments to sections in a Bill. That is the reason why I rise on this occasion to discuss the question of point of order which the hon. the Mover of the Bill has raised to the moving of amendment to the first clause. Clause 4, the Mover of the Bill says, has declared that the Act applies to certain transactions in North Malabar. We must realise that that clause simply says that nothing in this Act shall affect kanams in North Malabar. If somebody stood up and proposed another amendment saying that nothing in this clause shall apply to kuzhikanams in North Malabar it will be a perfectly legitimate amendment. I say that the meaning of section 4 is not that in other cases this Act shall apply, but it ought to be confined to this : that kanams shall not be affected. If somebody chooses to raise an amendment of the kind it ought to be permitted to be raised. I remember the point arose in the case of the Andhra University Bill, when an amendment was moved to omit some taluks of Bellary or Anantapur. At that time a question was raised as to whether a previous amendment which had been passed by the Council did not really make it impossible to make such an amendment. At that time it was pointed out that if one amendment was proposed that nothing in the Act shall apply to one taluk of Anantapur, there is nothing to prevent another motion to remove another taluk. The passing of the first amendment is not a decision that the Act shall apply to the other taluks. In fact the meaning of clause 4 that the Act shall apply to other transactions than kanam really flows only from clause 4 being taken along with clause 1 which has not yet been passed. Clause 1 says it shall apply to the whole of Malabar, i.e., both North and South Malabar. If you add another section that kanam transactions in North Malabar shall be outside this Act, the necessary result is that it will apply to North Malabar but that the kanam transactions of North Malabar will be outside the Act. So that, unless you pass clause 1 saying that it applies to the whole of Malabar the only meaning to import in clause 4 is that it shall not apply to kanam transactions. So, until we pass clause 1, the meaning which my hon. Friend Mr. Krishnan Nayar imports into clause 4 is not its legitimate meaning. Therefore, Sir, clause 1 is still open to consideration and anybody may move that it shall apply to only one taluk in the whole of Malabar. Such an amendment is in order and it ought to be considered.”

12-30
P.M.

* The hon. the PRESIDENT :—“ My difficulty is that this amendment moved by Mr. Uppi Sahib is absolute and says that none of the provisions of this Act shall apply to certain parts of Malabar. Taking the amendment as it is, I am afraid we shall be partially at least going back upon a decision.”

* Mr. T. R. VENKATARAMA SASTRIYAR :—“ So far we have not voted on the question as to which part of the country this Act shall apply to. If clause 1 had been taken in the regular order as the first matter to be dealt with, and we had accepted the whole of Malabar as coming under this Act no vote

[Mr. T. R. Venkatarama Sastriyar] [28th August 1926]

contravening that could be taken subsequently. For the sake of convenience and for reasons unconnected with the things that have now arisen, we decided to take the later sections first and then to come back to the question relating to the scope of the Act. Therefore, the scope of the Act still remains to be considered. If we decide now that it shall apply only to South Malabar it is not going back upon any decision already come to. This clause comes only for the first time for consideration before the Council and anybody may propose that it shall apply to some parts of Malabar and not to others. On this amendment they may move amendments to the effect that particular taluks should be excluded from the list of taluks specified in this amendment."

* Rao Bahadur C. V. S. NARASIMHA RAJU :—" I may submit, Sir, that amendments are mainly intended to be moved only to matters of this kind. Suppose we discuss now the question of the extent and area of the application of this Act and settle that North Malabar is to be excluded, then in the third reading stage we can correct clause 4 and omit the relevant portion because it is only a consequential thing as a result of the amendments carried with regard to the other sections. Therefore, to be allowed at this stage to discuss really the area to which the Act should apply and to have anything passed now is not inconsistent in any way. If clause 4 is inconsistent with the present decision, naturally a consequential amendment may be moved to clause 4. That is the main purpose with which this provision is made that in the third reading stage consequential amendments of this nature may be moved. I therefore submit, Sir, that you will be pleased to consider this proposition to be in order."

* Mr. K. PRABHAKARAN TAMPAN :—" Sir, I entirely associate myself with what the hon. the Leader of the Opposition has stated. The main question involved in this amendment is that of the extent of this Act. That has not been discussed till now by the House. It is only now under this clause, i.e., clause 1 that the extent of this Act is being discussed. These particular amendments have been before the House ever since amendments were given notice of by the Members. The question-as to what all places the Malabar Tenancy Act should apply has never come up for consideration till now. It is only the question of nominal kanam prevailing in North Malabar that was disposed of. Therefore, Sir, you will be entirely right in allowing this amendment for discussion. It is a pity that aware as he is of this amendment this thing was not referred to by Mr. Krishnan Nayar earlier. Everybody knows that Mr. Uppi Sahib is not a lawyer. He is only a layman. If he was told, as he ought to have been told by his friends, he would have raised this point even yesterday, at the time when the other clause was taken up. We all knew that this amendment was on the agenda and would be taken up in due course. In fairness to Mr. Uppi Sahib I think, Sir, you will allow him to go on with this."

* The hon. the PRESIDENT :—" The consideration which weighs with me is that we have been taking up clauses out of their natural order, and if clause 1 had been taken in its proper order, then we need not have discussed this question at all."

Mr. K. UPPI SAHIB :—" Mr. President, the reasons that urged in favour of tenancy legislation in Malabar are : the closing up of lands in jannmis, the want of circulation of lands in Malabar, the Mappilah trouble, etc. All these are some of the main causes for this legislation. But I challenge the Mover or any Member from Malabar to say whether these causes exist in North

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Malabar. There has not been a single Mappilah outrage in North Malabar. Land is not entrusted to a few janmis; but lands in the greater portion of North Malabar are held by peasant proprietors. According to the statistics placed before this House by the Government, it seems that in some of the villages where there are very big janmis, the average possession per head of the population works only to 7 acres, 5 acres and 4 acres. The circulation of land is going on every day in North Malabar. One of the difficulties in South Malabar is that the janmis are Nambudris, Nayars and Mappillas and the other lower class men among the Hindus are the tenant classes. In North Malabar beyond Calicut there is no such class as tenant class. A man is the janmi of his own land in North Malabar and he is also the tenant i.e., a janmi is a tenant and a tenant is a janmi. There is no separate class of tenants as such in North Malabar. If the Act is going to protect any class in South Malabar, it is not going to do that in North Malabar. Apart from all these considerations, Sir, I say that we have to a very great extent failed to take into consideration the conditions obtaining in North Malabar. Mr. Thorne in his report has said that there is no homogeneous Malabar; in fact, if there was any Malabar, there were two Malabars—the North and the South. He has rightly said that the physical conditions of North and South Malabar greatly differ. The greater portion of North Malabar is hilly and the greater portion of the revenues there are from the gardeners. In South Malabar, you may have noticed, Sir, that the value and the rent are calculated on what is called paras of paddy. In North Malabar, we calculate it on money, i.e., rent; because we cannot collect the rent in kind. The main produce of North Malabar is coconut and pepper. Another thing that has been urged before the House is that land is not in circulation and that there is janmi oppression and other social difficulties. I say, Sir, that most of the janmis in North Malabar—at least the greater number of them—are Nayars and Mappillas. There are a very few—about three or four—Nambudri janmis, and there is no social difficulty in North Malabar.

* Mr. K. PRABHAKARAN TAMPAN:—"My idea is that there are more than fifteen Nambudri janmi voters in North Malabar. (Diwan Bahadur M. Krishnan Nayar: 'Hear, hear'.)"

Mr. K. UPPI SAHIB:—"Mr. T. V. Anandan Nayar in his report in 1887 said that the dealings in regard to land tenure in North Malabar were more or less on a commercial basis. Each man invests his money, calculating the interest that he will be able to get out of the land and the tenant takes the land on a commercial basis. In North Malabar, you will find, Sir, that the tenants take the land and cultivate them themselves. If the land is paying, they will continue to cultivate; but if it is not, they will simply surrender the land to the janmi. In South Malabar it is not so. The land of the janmi is the place where his tarwad lives and if he is evicted from the land, he is evicted from the country; and he has to go out of the country. In North Malabar, however, all the tenants—or at least 90 per cent of them—have a house and a compound with parambas appartenant thereto. Therefore, if a man is evicted, he need not go out of his country and he need not fear, for he can get a land from another janmi. My own village, Sir, is a place where a very big janmi, the Raja of Kottayam, lives and I can say that I have never heard of oppression by the Raja. The very adjacent paramba or piece of land belongs to a private owner who possesses only that piece of land. As a matter of fact, I also belong to a janmi tarwad and the paramba

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that edges into the yard of my house belongs to a very small holder and he has got only that paramba. Still, he is not molested. You will find, Sir, the same condition everywhere and the average area of a janmam land in North Malabar comes to only 4 or 5 acres. Therefore, the gist of my argument is that there is no social trouble in North Malabar and the class of people who are benefited by this legislation does not exist in North Malabar. The land is not closed up with a few janmis and the circulation of land is going on. The land is also held on a commercial basis, and I do not see any justification for crushing the commercial dealings by a legislation of this House. With these few words, Sir, I move my motion."

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p.m.

* MR. V. MADHAVA RAJA :—" Sir, it is seen from the arguments brought forward by my Friend, Mr. Uppi Sahib, that there is no Mappila rebellion in North Malabar and there is no janmi oppression there. There was some Mappila rebellion but not due to oppression of the tenants by the janmis. Everyone will have to admit that there was no sort of trouble in North Malabar. The conditions are similar in Palghat taluk and I beg to move that Palghat may also be deleted. The amendment then will read: 'It extends to Calicut, Ernad, Walluvanad and Ponnani taluks of Malabar district and British Cochin, Anjengo and Tangasseri'."

* MR. K. PRABHAKARAN TAMPAN :—" I second it, Sir."

* The hon. the PRESIDENT :—" It is an important amendment and notice should have been given."

Rao Bahadur P. RAMAN :—" Mr. President, Sir, I oppose this motion of my hon. Friend Mr. Uppi Sahib which in effect is to exclude North Malabar wholly from the benefits of the Bill. As to kanams we have accepted clause 4, and therefore I have nothing to say on it now. The other important tenures are kuzhikanam and verumpattam. The question is whether the Bill should not be made applicable to these tenures of North Malabar. The problem of Malabar Tenancy has been before the authorities for more than half a century now. Officers of various grades, some with large experience of the whole Malabar district, have handled the subject and that at different times and from different standpoints. To my knowledge none of them made any distinction between the tenantry of North Malabar and South Malabar in so far as improvement leases were concerned and they are kuzikanam and verumpattam leases. That is my first point.

" In 1887 the authorities came to the conclusion that a legislative measure for securing to the tenants adequate value of improvements before eviction should be immediately passed, and they accordingly passed The Compensation for Tenants Improvements Act I of 1887. In 1900 the Government considered that further legislation was required, and after a great deal of discussion they passed Act I of 1900 amending the first Act. I would invite the special attention of this hon. House to these two Acts. They were passed for the protection of the tenants of the whole of Malabar district and not for North Malabar solely or for South Malabar solely. No distinction was ever made between the two parts. If North Malabar tenants were happy and their relations with landlords were smooth and there were no agrarian grievances these Acts, which were the subjects of hot discussion, would not have applied to North Malabar.

" Again the rules for, and the method of, valuation of improvements are not different, and courts award compensation in North and South Malabar

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on identical principles. From my personal experience as a High Court Vakil who had practised in North and South Malabar from 1887 to 1896 and had worked as a Judicial officer from 1896 to 1911, I can state with confidence that no party, vakils or Court had ever made any distinction between the kuzikanam and verumpattam leases of North Malabar and South Malabar. I am confident that the lawyer-members from Malabar will bear me out on this point.

"The wealth of North Malabar consists chiefly in coconuts and pepper and that of South Malabar in paddy, ginger, etc. In North Malabar garden lands predominate and a traveller will be struck with the luxuriant and enchanting view of the coconut palms. All this is the work of kuzikanam tenants. In the process of converting barren lands into fertile fields and planting and converting them into beautiful gardens the janmis' share is practically nil. The planting and rearing of coconut trees is a laborious task for a number of years in the beginning. The seed-nuts should not be dropped from the top. They should be lowered by means of rope and then planted and when they put out two or three leaves they should be transplanted into pits one yard square and one yard deep. They should be watered for five or six years. They begin to bear fruit generally between ten or twelve years. To say that the tenants require no protection is an intolerable injustice which no good janmi will countenance.

"Next as to the agitation the hon. Member stated there was no tenancy agitation. As a matter of fact, I am told that the agitation first arose in North Malabar. In 1924 there was a very largely attended conference of tenants in Badagara, North Malabar, presided over by the hon. Member for Godavari, Sir K. V. Reddi Nayudu. I admit that there were no head breakings as the people were loyal and had faith only in peaceful and constitutional agitation, and this there was."

MR. K. UPPI SAHIB :—"May I know from the hon. Speaker whether before 1923 there were no meetings in North Malabar?"

DIWAN BAHADUR M. KRISHNAN NAYAR :—"Mr. Appu Nedungadi presided over a meeting of the tenants held in 1918 in North Malabar at Tellicherry."

RAO BAHADUR P. RAMAN :—"Coming to my subject, Sir, tenants in various parts of North Malabar have held meetings and prayed for fixity of tenure and protection against landlords. In North Malabar alone—composed only of three taluks—we have ten Munsifs' Courts, one Sub-Court and one District Court for itself. Why this large number of courts if there be no grievance?"

"I may also mention a new factor. The electoral rules give the right of voting to many tenants. Are they allowed to vote according to their choice and conscience? Any one who has had any acquaintance with the manner of voting in North Malabar must be familiar with the pressure to vote according to the dictates of the landlord. Woe to the tenant who votes otherwise.

"On the whole, I submit that North Malabar has a preferential claim to fixity of tenure in so far as kuzikanam and verumpattam leases are concerned and that it should be included in the protection the Bill may ultimately give to such tenants in South Malabar."

*DIWAN BAHADUR M. KRISHNAN NAYAR :—"Sir, I oppose this amendment as vigorously as I can. Now, the chief tenures with which we have been

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dealing in this House are kanams, kuzhikanams, verumpattams, simple leases and so on. They practically fall under two classes—kanams and other tenures. Kanam carries with it a pecuniary interest. Now, so far as these kanams are concerned it is admitted by both the janmis and the tenants of North Malabar that they do not want legislation in respect of kanam in North Malabar. It is in accordance with the joint wishes of both the janmis and the tenants that this clause has been enacted exempting kanams in North Malabar from the operation of this Act."

* Mr. K. PRABHAKARAN TAMPAN :—" I question it, Sir."

* Diwan Bahadur M. KRISHNAN NAYAR :—" The hon. Member may question it, Sir, but it is a fact. I represent both the janmis and the tenants of North Malabar. In fact, a janmi wrote a letter"

* Mr. K. PRABHAKARAN TAMPAN :—" May I point out, Sir, that what my Friend, Mr. Krishnan Nayar, says is news to me though I represent the janmis of Malabar ?"

* The hon. the PRESIDENT :—" Is it as a matter of personal explanation? The hon. Member has misunderstood the argument. He only said ' A janmi wrote '. Mr. Prabhakaran Tampam is not the only janmi in Malabar."

* Mr. K. PRABHAKARAN TAMPAN :—" In the Council, I am the only janmi, Sir."

* The hon. the PRESIDENT :—" He did not refer to it."

* Diwan Bahadur M. KRISHNAN NAYAR :—" I submit, Sir, it was at the joint request of the janmis and the tenants of North Malabar that North Malabar kanams were exempted from the operation of this Bill. So far as the kanams are concerned, North Malabar does not want, and South Malabar very much wants it, and it is therefore in the Bill. But so far as the other classes are concerned, viz., actual cultivating class, whether they are cultivators of paddy lands on kanam tenure or other tenures, it is North Malabar that wants occupancy right very much more than South Malabar. This question of the necessity for granting occupancy right to actual cultivators is not a crying need in South Malabar, but it is a crying need in North Malabar; and, so far as kuzhikanams are concerned, they exist mostly in North Malabar, and it is only in portions of South Malabar, Chowghat and Calicut that we hear of them.

1 p.m. " It is for this reason that there is more necessity for granting fixity of tenure or occupancy right to cultivating tenants, to persons who are in actual occupation of the land in North Malabar than to those in South Malabar. I am very sorry that my hon. Friend, Sir K. V. Reddi Nayudu, is not here. He had the goodness to preside at a Tenants' Conference in North Malabar, which was held in Badagara, which is in the middle of North Malabar, and which is a chief place of kuzhikanams, and if he were here he would have borne testimony to the enthusiasm of the huge mass of tenants that were assembled in that hall there, and there was only one cry, viz., the need for occupancy right, so far as kuzhikanam tenants or actual cultivators were concerned. In fact, North Malabar wants occupancy right for kuzhikanams or for simple leases, and in fact if a choice had to be made between North Malabar and South Malabar as to the grant of occupancy right, so far as actual cultivating tenants are concerned, I would certainly vote for giving occupancy right to cultivating tenants in North Malabar and not in South Malabar.

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"Then the effect of what my hon. Friend, Mr. Uppi Sahib, said—of course, I do not think he himself has that motive; certainly Mr. Uppi Sahib is too noble minded for it—comes to this: 'I am myself a janmi and belong to a janmi family'—and he belongs in fact to one of the most important Mappilla janmi families in Malabar—'if a law is necessary, have it for South Malabar, but do not have a law for my place and for my lands'. That is the effect of my hon. Friend's amendment, though I am sure—I do not want to be misunderstood—that my hon. Friend is not so base or mean as to say so. But the effect of what he says is 'let all the janmis in South Malabar be ruined, let them have this law giving occupancy right to cultivating tenants and let us janmis in North Malabar be not burdened with it'.

"Then, my hon. Friend said that there was no Mappilla rebellion in North Malabar and therefore this law need not be enacted for that tract. It is not for the purpose of quelling Mappilla rebellions alone that this legislation is carried out. No doubt that will be one of the effects of this Bill if it ultimately becomes law, namely, it will act as a check, as an incentive to prevent frequent occurrences of Mappilla rebellions. But it is not to prevent that alone that this legislation is undertaken. There are so many reasons why this legislation should be undertaken, and the prevention of Mappilla rebellion's is one of those reasons."

* Mr. K. PRABHAKARAN TAMPAN :—"There were rebellions also in North Malabar, in Mattanur for instance".

* Diwan Bahadur M. KRISHNAN NAYAR :—"I thank my hon. Friend for reminding me of it and historically my hon. Friend is right. As a matter of fact, in the Mattanur Tangal family in Kottayam, i.e., in one of the most important Nambudiri families, many heads of Nambudiris were chopped off by Mappillas. That is recorded in Mr. Logan's Malabar Manual. In fact, Mappilla rebellion has occurred more often in South Malabar than in North Malabar. But North Malabar also has had its share."

Mr. K. UPPI SAHIB :—"Such occasional uprisings were common all over the world."

* Diwan Bahadur M. KRISHNAN NAYAR :—"I am not concerned with the uprisings throughout the world. My hon. Friend says that because there have been Mappilla outbreaks in South Malabar, legislation for South Malabar is necessary, and that so far as this aspect is concerned there have not been any outbreaks in North Malabar and that therefore no legislation is necessary for North Malabar. An inspection of the historical records will disprove his argument.

"Then, my hon. Friend Mr. Raman, who comes from the middle of North Malabar, and who spoke with a wide personal experience extending over many years both as a leading practitioner in the Courts in Malabar and as a judicial officer, as a District Munsif and Subordinate Judge, says that there is need for this legislation to a much larger extent in North Malabar than in South Malabar. As he rightly pointed out, the Tenants Improvement Act, which was the only Act that the Madras Government has so far enacted in favour of the tenants, has only touched the fringe of the problem. I am not concerned with that Act, but I may say, that the Tenants Improvement Act, both the Acts, the original Act of 1887 and the amending Act or consolidating Act of 1900, both those Acts did not exempt North Malabar in their application. The Act is applicable to the whole

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of Malabar, both North and South Malabar, so that that is another argument showing that if tenancy legislation is undertaken it should be both for North Malabar and South Malabar.

“Then, my hon. Friend said that social oppression did not exist in North Malabar. Here again, social oppression is only one of the evils which are sought to be prevented by this legislation, and it is not for the sole purpose of preventing social oppression that this Bill is brought. Again, my hon. Friend is wrong in saying that social oppression does not exist in North Malabar. It exists in North Malabar as well. Mr. Kunhi Raman Nayar, who was a judge in the Madras Presidency, a native of Chirakkal in North Malabar—he is now dead—he was on the side of janmis—said, in his note on Mr. Logan’s memorandum, that for certain purposes legislation was necessary, and one of those purposes that he mentioned was the prevention of social oppression. He says that in Chirakkal taluk in North Malabar there is great social oppression, and a reference is made to a well-known janmi of North Malabar, and I do not want to mention his name here. In fact, acts of social oppression in that neighbourhood are well known in Malabar. As a matter of fact, there also my hon. Friend, Mr. Uppi Sahib, is wrong. I very strongly oppose this amendment.”

* Mr. K. PRABHAKARAN TAMPAN :—“Sir, I support this motion as strongly as I can. On the merits of the question alone, it has to be accepted by the House. The conditions in North Malabar are certainly different from those in South Malabar. Reference has already been made to it by those people who have had intimate knowledge of the conditions there: Mr. Innes has said so, Mr. Thorne has said so, and Mr. Logan has said so. In fact, all those who have had anything to do with the question of land tenure in Malabar have recognized the difference between the two parts of the district. But, Sir, there is another aspect, which as a representative of the janmis I am bound to point out. This is the most confiscatory measure, so far as janmis are concerned, that has ever been passed by a legislature. Sir, honestly speaking, I believe that, even if one taluk or one village or one tarwad is exempted from the operation of this Act, they at least would be saved, and representing as I do the janmis of North Malabar, I strongly appeal to the Council to relieve at least those janmis.

“Then, Sir, I must not fail to refer to the attitude of my hon. Friend Mr. Uppi Sahib. He has been a staunch supporter of the Bill in its application to South Malabar but at the same time wanted to exclude North Malabar from its operation. He ought to have realized what the Council would infer from his attitude—as the hon. Member, Mr. Krishnan Nayar, rightly drew his inference. Because he does not own any property in South Malabar he has no objection to damn the . . .”

Mr. K. UPPI SAHIB :—“On a matter of personal explanation, Sir. I have made my position clear from the very beginning, that though I am a janmi I am prepared to support the Bill, even at the expense of North Malabar. But I said that the conditions obtaining in North Malabar should be taken into consideration in introducing any provisions in this Bill, and necessary suitable provisions ought to be introduced. I may again repeat that I am prepared to support this Bill right through all its stages provided only that the conditions of North Malabar are taken into consideration. And as the Bill has so far failed to take into consideration those conditions, I have brought forward this amendment.”

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* Mr. K. PRABHAKARAN TAMPAN :—“Hon. Members here have got their own eyes to see and ears to hear. Mr. Uppi Sahib is a janmi and should have taken a definite attitude and joined us in opposing this measure from the very beginning. Had he done so, he would not be in this unsafe position. All the same, I am strongly of opinion that this amendment should be accepted by the House.”

* Mr. K. UPPI SAHIB :—“Mr. Raman in opposing this amendment said that had it not been for the social oppression also in North Malabar the Malabar Tenants Improvement Act would not have been extended to North Malabar. I may point out that Mr. Logan, a great supporter of the tenants, himself said that compared to the complaints he had received from the tenants of South Malabar the complaints he received from those of North Malabar were nil. But why all that. As a matter of fact, we do not want that the tenants should be evicted, and we want that the tenants' rights should be protected. It may be that the Tenants Improvement Act has given very very great protection for the tenants. But I may bring to the notice of Mr. Raman, who is famous for his conscientiousness and fairmindedness, that the price paid by us to the tenant for his improvement is far greater than the value of the improvement itself, and thus the tenant is already protected. But I should say that the only evil that is obtaining in North Malabar is melcharth. If that could be stopped, there will be no other evil. In a small conference held in North Malabar some four or five months ago, at which one of the hon. Members of this House, Mr. Satyamurti, was also present, the supporter of the tenants from Chirakkal taluk said, ‘if only you stop the right of giving melcharth, we will be satisfied and no other remedy is required’. All the other remedies will bring about trouble in North Malabar instead of any advantages. With these few words, I press my amendment.”

The amendment was put and declared lost.

Mr. K. Uppi Sahib demanded a poll and the House divided thus :

1-15
p.m.

Ayes.

- | | |
|---|---|
| 1. Mr. K. Prabhakaran Tampam. | 11. Mr. B. Ramachandra Reddi. |
| 2. „ V. Madhava Raja. | 12. Khan Bahadur Haji Abdulla Haji Kasim Sahib. |
| 3. Rao Bahadur O. M. Narayanan Nambudripad. | 13. Mr. Muhammad Ghouse Mian Sahib. |
| 4. Mr. K. Raghuchandra Ballal. | 14. Sriman Sasibhushan Rath Mahasayo. |
| 5. Rao Bahadur C. V. S. Narasimha Raju. | 15. Mr. R. Srinivasa Ayyangar. |
| 6. Mr. S. Muttayya Mudaliyar. | 16. „ U. M. Moida Sahib. |
| 7. „ P. C. Venkatapati Razu. | 17. „ L. K. Tulasingam. |
| 8. „ Muhammad Meera Sahib. | 18. „ K. Uppi Sahib. |
| 9. „ Chavadi K. Subrahmanya Pillai. | 19. „ D. Manjappa Heggeda. |
| 10. Rai Bahadur T. M. Narasimhaachari. | |

Noes.

- | | |
|---|--|
| 1. Mr. K. P. Raman Menon. | 10. Rao Bahadur K. Krishnaswami Nayudu. |
| 2. „ H. B. Ari Gowder. | 11. Mr. R. Madanagopal Nayudu. |
| 3. Rai Bahadur Sir K. Venkatarreddi Nayudu. | 12. Honorary Lieutenant Madurai. |
| 4. Rao Bahadur C. Natesa Mudaliyar. | 13. Mr. T. Mallasappa. |
| 5. „ M. C. Raja. | 14. „ P. N. Marthandam Pillai. |
| 6. Mr. N. Devendrudu. | 15. Rao Bahadur B. Muniswami Nayudu. |
| 7. „ A. Ramaswami Mudaliyar. | 16. Mr. K. S. Ponnuswami Pillai. |
| 8. Rao Sahib V. Gopalan. | 17. Diwan Bahadur P. Kesava Pillai. |
| 9. Mr. L. C. Guruswami. | 18. Rao Bahadur T. A. Ramalinga Chettiyar. |
| | 19. Mr. P. Siva Rao. |

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Noes—cont.

20. Sriwan Biswanath Das Mahasayo.
 21. Mr. M. Gangaraju.
 22. „ C. Gopala Menon.
 23. Diwan Bahadur M. Krishnan Nayar.
 24. Mr. P. T. Rajan.
 25. Rao Bahadur P. Raman.

26. Mr. J. D. Samuel.
 27. „ K. Sarvarayudu.
 28. Rao Sahib R. Srinivasan.
 29. Mr. K. Sritrama Reddi.
 30. „ R. Vecorian.

Ayes 19.

Noes 30.

The amendment was lost.

Clause 1.

Sub-clause (2).

1-15 the words
 p. m. * Mr. K. PRABHAKARAN TAMPAN :—“ Sir, I beg to move that at the end
 ‘except the Wynad and Attapadi’.

be added.

“The conditions in Wynad are altogether different from those obtaining in other parts of Malabar. With regard to Wynad there is again what is called the Nilgiri Wynad and the Malabar Wynad. Malabar Wynad does not differ very much from the Nilgiri Wynad. In both places Government own extensive janmam properties. There is no janmi monopoly as alleged in Malabar. The tenants can easily get any extent of land from the Government on quit-rent or on other kinds of tenure. There the janmis are very limited in number. On account of the physical conditions of the place the tenants do not stick to their cultivation for a long time. The place is highly malarial and full of forests. There is no competition among them such as exists in other parts of Malabar. It often happens that the tenants cultivate the land for some time and then run away. The population is scarce. If the Bill is made applicable to these places, even the tenants will suffer in this way : they would be held responsible for the rent even after they come away from the place. The janmi will not let in a tenant hereafter. So either from the point of view of the janmis or from the point of view of the tenants, there is no necessity to extend the operation of this Bill to Wynad. Many of the holdings there are coffee, tea, rubber and such kind of European plantations. Those plantations have been excluded from the operation of this Bill. Coolies are engaged in large numbers in those plantations and they get higher wages there with the result that indigenous cultivation is neglected. At page 51 of his report, Mr. Innes has dealt with the conditions of Wynad which I am sure every member has read. On these grounds I submit that the Bill should not be made applicable to Wynad. Then, with regard to Attapadi, Sir, I may say the same conditions apply. Attapadi is a portion of Walluvanad taluk adjacent to Wynad. Except for administrative jurisdiction they are one and the same. I therefore move that Wynad and Attapadi may be excluded from the operation of this Bill.”

* Diwan Bahadur M. KRISHNAN NAYAR :—“ So far as Wynad is concerned I have no objection to accept the amendment. But as regards Attapadi conditions are different. The conditions prevailing there are not the same as those in Wynad. Even Mr. Innes in his report does not say that Attapadi should be excluded. The conditions in Wynad are that it is on a high level and very malarial. Attapadi is not a very large area. My hon. Friend, Mr. Raman Menon knows Attapadi more than myself and even more than

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Mr. Prabhakaran Tampam himself. I understand that there are only a few Goundan tenants there. My hon. Friend has not said one word about the conditions existing in Attapadi, and I do not think any case has been made out for excluding it. It is a place which is situated midway between two hills, in a valley in the corner of Walluvanad."

Mr. K. P. RAMAN MENON:—"With reference to Attapadi valley I do not think the conditions there necessitate its exclusion from the operation of this Bill. Attapadi valley is very sparsely populated and I do not think whether there is an Act or no Act anybody will be materially affected by these provisions. There are some patches of cultivation there and there is no reason why persons who cultivate the soil there under very many adverse circumstances, should not be given the protection contemplated in the Bill. The Attapadi valley is just to the south of the Nilgiri district and north of the peak which separates Coimbatore district from the Palghat taluk of the Malabar district. It is a very hilly region and there are some Goundans permanently inhabiting the place."

* Mr. K. PRABHAKARAN TAMPAN:—"I am glad the author of the Bill has accepted my amendment so far as it relates to Wynaad. But I am sorry I must press the exclusion of Attapadi also for acceptance. The Expert Member said that Attapadi is a hilly tract. One trouble if we make it applicable to Attapadi will be that in future the janmis will not allow the tenants to clear the forests and cultivate lands. In the interests of the cultivators themselves we should exclude Attapadi valley. I have not gone there myself nor do I own one inch of land there. Therefore I am not personally interested in its exclusion, but as a janmi Member I am bound to safeguard the interests of all janmis in my constituency. Therefore I cannot withdraw the case of Attapadi. I do believe that the conditions there necessitate the same treatment as meted out to Wynaad. There are not many who have settled down there. It is also highly malarial and full of forests. As the hon. Mover of the Bill does not want to exclude Attapadi, but only wants to exclude Wynaad, Wynaad and Attapadi may be separately voted upon."

* The hon. the PRESIDENT:—"Is the hon. Member himself moving an amendment to that effect?"

* Mr. K. PRABHAKARAN TAMPAN:—"I move that Attapadi and Wynaad may be put to the House separately."

The hon. the PRESIDENT:—"In the hon. Member's amendment they hang together and if the hon. Member wants that Wynaad and Attapadi should be put separately, he must move an amendment that the words 'and Attapadi' may be omitted from his amendment."

Mr. S. ARPUDASWAMI UDAYAR:—"I move, Sir, that in the amendment now before the House, the words 'and Attapadi' be omitted."

The motion for omission was put and carried.

The amended motion, viz., to add at the end of sub-clause (2) of clause 1, the words 'except the Wynaad' was then put to the House and carried.

The House adjourned for lunch at 1-30 p.m.

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After Lunch (2-30 p.m.).

Rai Bahadur T. M. NARASIMHACHARLU :—"I beg to move that the following be added as a new sub-clause :

(3) *This Act shall come into force on the 15th March 1931 or such other later date as the Local Government may notify on this behalf.*

"At first sight it may appear that this is a kind of blocking motion intended to obstruct the enforcement of this Act, but a little consideration will show that it is not so. It is conceded that the law for the last 71 years was such that a kanam was a redeemable demise, that no tenant has got any right of occupancy in the land, and that the land entirely belonged to the janmi. Some went to the length of saying that even the Government had no right in the unoccupied lands. That being so, this Bill if it is enacted into law will revolutionize the existing state of things. It will, from the date of the passing of this Act, confer occupancy rights on many people who have not hitherto been in enjoyment of those rights and deprive many of those rights which they have been hitherto enjoying. That is to say, those who have been vested with certain rights in the past will be deprived of them as soon as the Act comes into force. My point is, let not this revolution be brought about at once. Let some time be given to those who will be deprived of their rights so that they may adjust their future according to the provisions of this Act. In fact there may be many contracts which may terminate within the end of 5 years, and let that relationship which has arisen out of the contract between the parties continue till the end of 5 years. If we do this, we will be doing the least mischief, because in the course of 5 years things may be so altered that the people whose rights we are now depriving of may find sufficient time to console themselves of the loss that might entail to them by the passing of this Act. My submission is that this amendment should not be considered as an obstructive one. It is a well considered one and we may minimise the evil which the passing of this Bill might bring about if the Act is to be brought into force as soon as it is passed or soon after it has received the assent of His Excellency the Governor. As already submitted, the janmis may well think, within a period of 5 years as to how best they can dispose of their properties, and it is with a view to give them the least loss that I suggest this amendment. Without elaborating the point further, I submit that some time might be given to the janmis to adjust themselves. When I mentioned the year 1931 my idea was that a period of 6 years should be allowed for this Act to come into force. But this Bill has been going on for several months so that the period I propose comes very nearly only to 4½ years. It was therefore that I suggested such other later date as the local Government may notify on this behalf, so that it may be left to the local Government to fix the date. It may even extend to 12 years, within which time the rights will adjust themselves and the janmis might have had ample time to adjust their rights with their kanamdars and verumpattamdars. I submit that a law which is so revolutionary in character should not be brought into force at once. Let it at least be said that before we hang a man we have given him some respite to think of the other world. I submit when a man dies his body is not taken at once to the cremation ground. We do not hang a man as soon as the death sentence is passed. Some time elapses during which his people and friends come and console him. So, let some time be given to the janmis to console themselves

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so that they may adjust themselves and see how best they can live hereafter. I submit we should not precipitate such a revolutionary measure on the unwilling janmis. I move my motion."

* Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, the best answer to my friend's amendment has been furnished by himself. He was very often repeating that it was not a blocking motion. I do not think that any member of this House who has understood the provisions of this Bill will for a moment hesitate to consider my hon. Friend's motion as anything other than a blocking motion pure and simple. My Friend's attitude has been a curious one. My hon. Friend Mr. Prabhakaran Tampam, the representative of the janmi in this House, is prepared to concede many things. Whereas my hon. Friend Mr. Narasimhacharlu who comes from the forests of Cuddapah is not prepared to make any concession in favour of any tenant at any time."

Rai Bahadur T. M. NARASIMACHARLU :—" On a point of personal explanation. I do not know anything either about the janmi or the tenant of Malabar. I am an impartial observer and I am convinced that this legislation is a very bad piece of legislation, and therefore I oppose everything contained in it. I am not at all concerned with either the janmis or the tenants."

* Diwan Bahadur M. KRISHNAN NAYAR :—" I am glad my hon. Friend from Cuddapah has made this very sad confession, namely, that he knows nothing about the janmis or the tenants of Malabar and that he knows only that this Bill which concerns the janmis of Malabar is a bad one. I do not think that elaborate arguments are necessary to oppose this diehard amendment of my hon. friend." p.m.

Mr. K. P. RAMAN MENON :—" Sir, I am surprised at the levity with which my hon. Friend has moved his amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—" I must protest against this statement, Sir."

* The hon. the PRESIDENT :—" I do not think any hon. Member can accuse the hon. Member from Cuddapah of levity."

Mr. K. P. RAMAN MENON :—" That is why, Sir, I said, I was surprised at it. The hon. Member says that the Act might come into force after the midnight of the 14th of March 1931. To my mind, Sir, it seems very strange and I hope the House will not accept it."

* Mr. K. PRABHAKARAN TAMPAN :—" Sir; I do not quite see how objectionable this proposal is. It only gives the janmis a kind of notice to quit. Such of those who do not want to keep their janmam lands can sell away all their properties and shift for themselves. This is the most revolutionary measure that has ever been passed by this Council and before bringing this measure into operation people should be given some time to adjust themselves to the new conditions and surroundings. To my mind, it does not seem to be such a bad proposal as the Mover of the Bill and his supporter have characterized it to be. Candidly speaking, it did not strike me; otherwise I myself would have brought this motion. I am thankful to the hon. Member from Cuddapah for having brought this amendment. I have great pleasure to support the motion."

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* Mr. V. MADHAVA RAJA :—" Sir, I support the hon. Member Mr. Narasimhacharlu. It gives the jannmis a breathing time to adjust themselves to the new conditions. The poor jannmis who find it difficult to make both ends meet might sell away their property and go to other places. Under these conditions no one will buy the lands; perhaps the tenants will buy the lands. Therefore I urge that at least 6 years' time should be given."

* The hon. the PRESIDENT :—" Does Mr. Narasimhacharlu want to reply? "

Rai Bahadur T. M. NARASIMHACHARLU :—" Nothing to reply, Sir. The hon. Member has advanced no arguments "

The amendment was put to the House and lost.

Clause 1 as amended was put to the House and carried.

Clause 2.

* Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, clause 2 deals with definitions. I suggest, and I hope the hon. Mr. Moir will agree to this, that we may deal with this clause and the preamble after disposing of the amendments to clauses of the Bill already passed. However, I am amenable to any course that is adopted."

* The hon. Mr. T. E. MOIR :—" I think, Sir, the course is entirely suitable."

* The hon. the PRESIDENT :—" I suppose they are only consequential amendments."

* Diwan Bahadur M. KRISHNAN NAYAR :—" Some are not; others are."

* Mr. K. PRABHAKARAN TAMPAN :—" I also think that it is a suitable course; but I do not know whether the Standing Orders allow it. I think that amendments to clauses already passed can be taken up only at the third reading."

* The hon. the PRESIDENT :—" I think it would be more regular to follow the usual course."

Item (d).

* Mr. K. PRABHAKARAN TAMPAN :—" Sir, I beg to move that 'after the word, "kanamdar" the words, "for agricultural purposes" be inserted.' "

" Sir, the author of the Bill introduced this legislation for improving the lot of the agriculturists. There are many holdings which are not intended for agricultural purposes. I think it is therefore better to make the definition clear enough so that it might apply to holdings used for agriculture only."

* Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, I oppose the motion. My hon. friend himself has always held the opinion that occupancy rights should be given to the holders of homesteads also. He has also given notice of an amendment to the effect that occupancy rights should be given also to the holders of homesteads. If we accept his present amendment, it would rule out holders of homesteads. Why should we exclude a class of persons who more than others require the grant of occupancy rights? I oppose the amendment; probably the hon. the Mover himself has not seen the consequences of it."

The amendment was put to the House and lost.

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Item (e).

* Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, I beg to move that *before* the word 'adds' the word 'materially' be inserted. The definition as it stands runs thus: 'Improvement means any work or product of a work, which *adds* to the value of the holding . . . ' Anything may be said to be an addition to the value of the holding; it is very vague. Unless there is a material addition to the value of the holding it cannot be called an improvement. I therefore think that the addition of the word is necessary."

* Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, I oppose the amendment. This definition has been bodily taken from the definition of the same word in the Malabar Compensation for Tenants Improvements Act. This Act has been in operation for a long time and no difficulty has been experienced for the last forty years. I think it is better to adopt it bodily."

Mr. K. P. RAMAN MENON :—" Sir, may I also add that the proposed addition of the word instead of diminishing the chances of ambiguity would add to the ambiguity. What can be said to be a material addition? That will be a matter for discussion in the courts and it will add to the confusion rather than remove it."

* Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, I am not convinced of the reasons advanced for inducing me to withdraw my amendment. Because in another Act passed several years ago the same definition occurs, it is no reason why we should not adopt a new definition now. If there is ambiguity in the original definition, the addition proposed will at least remove a portion of it. It goes a step further. It is not that any additions made can be called an improvement; the addition must be substantial and material. I press the motion."

* Mr. K. PRABHAKARAN TAMPAN :—" Sir, I wish to support the motion before the House. In the Bengal Tenancy Act and in some other Acts also where compensation is provided for the improvements effected by the tenants the word, 'materially' occurs. The definition found in the Compensation for Tenants Improvements Act is not the last word on the subject. We need not borrow that definition here. For instance, suppose there is no material improvement at all in a holding which the janni wants to redeem. If the tenant is frivolous enough to apply for compensation it will take a long time to decide the point and thus frustrate the object of the janni. Eviction is restricted to a few cases now and it is only fair that there ought to be no further obstacles in those limited cases. The addition proposed is highly necessary."

* Diwan Bahadur M. KRISHNAN NAYAR :—" With your permission, Sir, because I am not allowed to speak again, may I draw your attention and the attention of my hon. friends to clause 29 already passed by the House which says that the provisions of Madras Act I of 1900 shall apply to all cases of eviction under this Act, which provides for eviction under certain contingencies. This definition has been borrowed from the Madras Act I of 1900 which applies to cases of eviction. Therefore if we have one definition here with the addition of the word 'materially' and another definition in the Madras Act I of 1900 there would be difficulties in practical application. I would rather omit the definition of the word 'improvement' from this Bill, because nowhere in the body of the Bill does the word occur. Otherwise there would be difficulty for the courts in construing the exact scope of the definition."

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3 p.m. Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, may I point out that there is the word 'improvement' in section 27?"

* Diwan Bahadur M. KRISHNAN NAYAR :—"Then I would certainly object to the inclusion of the word 'materially'."

The amendment was put to the House and lost.

* Mr. K. PRABHAKARAN TAMPAN :—"I beg to move that
'in clause 2, item (e), in line 4, the word "demised" be substituted for the word "mortgaged".'

"The definition of the word 'improvement' was bodily borrowed from the Malabar Compensation for Tenants Improvements Act. That Improvements Act had done the greatest harm to certain classes of people. It allows compensation even for mortgagees. A man takes a usufructuary mortgage, and it is open to him to put up substantial buildings and other things and remove the janmi out of the holding altogether. That is a real disservice done to the landlords in Malabar. And I think, Sir, that if there is an opportunity to revise that state of affairs, it is highly necessary to see if that evil could be remedied through this Bill. I know instances where mortgagees were recently putting up huge buildings, planting coconut trees, jack and other trees, with the result that the mortgagor was absolutely helpless to redeem the land. I can understand a kanamdar or an ordinary lessee, who has an interest in the land doing this, but to allow a mortgagee to do all these things is really bad. I do not know if in any other part of the world such a system exists,—I think not. I think it is desirable that mortgagees should not be allowed to make improvements on the holding and make it impossible for the mortgagor to resume his land."

* Diwan Bahadur M. KRISHNAN NAYAR :—"This is a reproduction of the definition of the word 'improvement' found in the Improvements Act. My friend's argument in effect is this; he wants to take this opportunity to amend that Act. I do not admit that there is any mistake which has to be amended, and I do not think we can do it."

The amendment was then put to the House and lost.

New item after item (h).

Mr. J. A. SALDANHA :—"Sir, I beg to move that
'in clause 2, after item (h) the following be added as a new item and the rest re-lettered:—

"'Kuzhikanam tenant' includes assignee and representative in interest of such person."

"I propose the addition, Sir, simply with a view to keep it in line with the definition of the word 'kanamdar.' Kanamdar includes the assignee and representative in interest of such a person. I want a similar provision so far as kuzhikanam tenants are concerned to avoid difficulties and confusion, and to show that the word includes the assignee and representative in interest of such a person."

* The hon. the PRESIDENT :—"Why do you not add that to item (h)?"

Mr. J. A. SALDANHA :—"I have no objection. But it would necessitate a change in the wording of (h). I do not think there can be any objection to my proposal. It makes the thing clear."

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* Diwan Bahadur M. KRISHNAN NAYAR :—" I have no objection to accept the substance of the amendment, but the proper place and way of inserting it are not clear. The hon. Member has an amendment to item (n), and it deals with the definition of the word 'tenant,' and it is this :—

"*Tenant*" means a lessee and includes a verumpattam tenant."

Mr. J. A. SALDANHA :—" I wish to clear a misapprehension in the mind of my hon. friend. 'Tenant' includes a verumpattam tenant. If you include under the word 'tenant' a kuzhikanam tenant it would make things clear. You agree with the substance of my proposition . . ."

* The hon. the PRESIDENT :—" Why do you not include it under the item (n) dealing with 'tenant' ?"

Mr. J. A. SALDANHA :—" I will accept the form in which my hon. friend Mr. Krishnan Nayar will put it."

* Diwan Bahadur M. KRISHNAN NAYAR :—" The hon. Member may put it under item (n)."

Mr. J. A. SALDANHA :—" I have no objection to take it later."

.. Item (i).

* Mr. K. PEABHAKARAN TAMPAN :—" I beg to move that the following words may be added at the end of item (i) in clause 2 :—

'and includes every person entitled to collect michavaram or rent.'

"Then the definition will read thus :—

"Landlord" means a person under whom a tenant, or kanamdar holds, and includes every person entitled to collect michavaram or rent.'

"This was borrowed from the definition of the word 'landlord' in the Estates Land Act. My idea is this: sometimes, Sir, the landholder mortgages his right and then it is the mortgagee who is entitled to collect the michavaram or rent. We have provided that wherever the landholder has got his granary, the rent has to be measured in that granary. There are several obligations due from the tenant and when we mortgage our properties to a third party, that third party steps into the shoes of the landlord. Whatever the law allows to the landlord must be allowed to the mortgagee also. Otherwise, it will be very difficult for the landlord to raise loans on his land. Therefore, it is highly necessary that all these provisions made applicable to the landlord are made applicable to his representative also. Otherwise, the definition will be incomplete."

* Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, to accept this amendment will lead to considerable difficulty and confusion. With reference to the difficulties pointed out by my hon. friend, there is absolutely no difficulty at all. When a janmi or any other landlord transfers his right to any other person, the transfer deed or the power-of-attorney, if there be any, may specify if that power to collect rent is also delegated. But, there is considerable difficulty in changing the definition. Now, take the case of a purchaser in court auction of the rents due to the landlord; then he will, under the amendment suggested by my hon. friend, be a person entitled to collect the rent. But a purchaser in court auction of the rents alone due to the janmi will not be entitled to take a surrender from the tenant of the holding itself. So also, there are other provisions relating to eviction. Landlords

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under certain circumstances, as for instance under clause 37, are given the power of evicting the tenant. But, if this amendment is accepted, then, it will lead to considerable difficulty and confusion. The apprehension of my friend is unfounded and there is no need for the amendment."

The amendment was put to the House and lost.

Item (e).

3-15 p.m. Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, amendments Nos. 36 and 38 may be taken together. The definition given in the Bill is "michavaram" means what is agreed to be paid annually to a janmi by a kanamdar. If these amendments are accepted it would read 'whatever is agreed to be paid or delivered annually to a janmi by a kanamdar.' I think this omission causes difficulty when we deal with rent delivered in grain or kind and not in cash. In item (f) 'kanam' is defined as "the consideration, in money or in kind, or partly in money and partly in kind, paid to the janmi by a kanamdar for his holding." Item (m) runs thus "rent" means what is payable or deliverable annually to the landlord by the tenant in money or in kind or partly in money or partly in kind in respect of his holding. With these words I beg to move the amendments standing in my name:

'In item (l) for the word "what" substitute the word "whatever" and after the word "paid" insert the words "or delivered".'

Rao Bahadur T. M. NARASIMHACHARLU :—"I second the amendments."

Diwan Bahadur M. KRISHNAN NAYAR :—"I accept the amendments, Sir."

The amendments were put to the House and carried.

New item after item (l).

* Diwan Bahadur M. KRISHNAN NAYAR :—"Sir, I beg to move the amendment standing in my name :—

'After item (l) insert the following and re-letter the subsequent items :—

"(m) 'Renewal fee' means a fee or fees payable by a kanamdar or tenant to his landlord on renewal of his holding."

"That is only a consequential amendment. In the original Bill as it was introduced we had made provision for the payment of renewal fee on the renewal of a holding. The Select Committee cut out all provisions in the original Bill relating to renewal of the holding and to the renewal fee after the term has expired. So this amendment is necessary."

Mr. K. P. RAMAN MENON :—"I second the motion."

The amendment was put to the House and carried.

Mr. J. A. SALDANHA :—"With your permission, Sir, I shall move my amendment on net produce later on. The hon Member Mr. Raman Menon has given notice of an amendment to define the words 'net produce' in a separate item after item (n). I think that would be the proper place to move my amendment."

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Item (m).

* Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, I move the amendment standing against my name, with regard to the definition of the word 'rent'. The definition as it stands says : " 'Rent' means what is payable or deliverable ' The alteration suggested by me would define the word 'rent' as 'whatever is lawfully payable or deliverable ' I would submit that the insertion of the word 'lawfully' is quite necessary as we find a corresponding provision in the Madras Estates Land Act; a comparison of other statutes dealing with this question necessitates the insertion of the words. With these words I move that

'for the words "what is" substitute the words "whatever is lawfully".'

* Rai Bahadur T. M. NARASIMHACHARLU :—" I second the amendment."

* Diwan Bahadur M. KRISHNAN NAYAR :—" I accept the amendment."

The amendment was put to the House and carried.

Rao Bahadur P. RAMAN :—" Sir, I beg to move the following amendment :—

'After the word "annually" substitute the words "or periodically".'

"Coming from the Malabar district I wish to point out that rent is payable in some cases every sixth month. The definition should include such cases also. Therefore I request that the amendment may be accepted."

* Diwan Bahadur M. KRISHNAN NAYAR :—" I accept the amendment."

* The hon. the PRESIDENT :—" 'Periodically' includes 'annually'. Therefore 'periodically' may be substituted for 'annually'."

Rao Bahadur P. RAMAN :—" I have no objection, Sir, to move the amendment in the following form :—

'For the word "annually" substitute the word "periodically".'

The amendment was put to the House and carried.

Item (n).

* Mr. K. PRABHAKARAN TAMPAN :—" Sir, I beg to move the following amendment :—

'Add the following at the end of the item : . . .

"but does not include a mortgagee."'

"My object is to make the meaning clear. I think that mortgagees should not be treated as tenants. Obviously, it is not the intention of the Council to give occupancy rights to mortgagees. If my amendment is accepted, the definition would read like this: "Tenant' means "a person who, as lessee, or in good faith believing himself to be lessee, of land, is in possession thereof, and includes a verumpattam tenant but does not include a mortgagee.' I recommend that this amendment be accepted."

* Mr. V. MADHAVA RAJA :—" I second the amendment."

* Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, I have no objection. But it is better to accept the amendment of the hon. Member Mr. J. A. Saldanha."

The amendment was by leave withdrawn.

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Mr. J. A. SALDANHA :—"My amendment is 'Tenant' means a person who, as lessee, or in good faith believing himself to be lessee, of land, is in possession thereof, and includes a verumpattam tenant, kuzhikanam tenant and assignee and representative in interest of such tenant but not a mortgagee. Therefore I beg to move that

the following words be added at the end :

"Kuzhikanam tenant and assignee and representative in interest of such tenants but not a mortgagee"."

* Diwan Bahadur M. KRISHNAN NAYAR :—"I beg to second the amendment."

The amendment was put to the House and carried.

New item after item (n).

* Mr. K. PRABHAKARAN TAMPAN :—"Sir, I think there is no necessity to move the amendment regarding the definition of the word 'Janmapattam'. I gave notice of it in anticipation of the Council accepting my proposal for the revision of rents. For the same reason, the definition of the word 'interest' does not arise. But the words 'land revenue' must be defined. I beg to move that

the following be added as a new item :

"Land revenue includes all public dues leviable on the land."

* Diwan Bahadur M. KRISHNAN NAYAR :—"May I ask my hon. Friend one question? Will he point out where the words 'land revenue' occur in the Bill. Of course, the word 'revenue' occurs in clause 25 which has these words 'save arrears of revenue due to the Government'. We are trying to be accurate and therefore we can drop the word 'land'."

* Mr. K. PRABHAKARAN TAMPAN :—"Land revenue' must include every kind of cess, local fund cess, educational cess' etc. It may be argued that all those kinds of cesses are not included in the word 'revenue'. Therefore I am anxious that the word 'revenue' should be defined. Anyhow, we may omit the word 'land'. My amendment would then run as follows :—

"Revenue" includes all public dues leviable on the land."

* Mr. V. MADHAVA RAJA :—"I second the amendment."

* Diwan Bahadur M. KRISHNAN NAYAR :—"I have no objection to the amendment."

The amendment was put to the House and carried.

* Mr. K. PRABHAKARAN TAMPAN :—"Sir, there is no necessity to define the words 'net income'. But 'net produce' has to be defined. I have divided lands into two categories, paddy lands and garden lands. This classification has been accepted by Sir T. Madhava Rao's Committee and by Mr. Logan. I move that

the following be added as new items :

"Net produce" of paddy lands means the estimated annual yield or gross produce of any land cultivated less the usual quantity of seed sown and an equal quantity for expenses of cultivation and 20 per cent of hay gathered.

"Net produce" of garden lands means three-fourths of the annual yield."

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"Sir, we find that the old custom was to allow a definite quantity for seed and an equal measure for cost of cultivation also; and that is the present custom also. For sowing one acre of land $6\frac{1}{2}$ paras of paddy are required and an equal quantity is necessary for expenses of cultivation. It was on that basis that even in the old days the net produce was fixed. Therefore after the harvest is over, it is seen how many paras of paddy the land has yielded and from that the seed required for sowing and the expenses of cultivation are deducted. There is hay also. The landlord takes only 20 per cent of the hay, because it is considered that the tenant has a right to 80 per cent of it. That has been the custom followed in the past and therefore it is better that the old custom is adopted. The definition is given in view of the fact that the renewal fee has been fixed at one year's net produce. I therefore recommend the adoption of my definition for 'net produce'.

"As regards garden lands, the definition that I have given has also been adopted from the draft Bills submitted by Sir T. Madhava Rao's Committee and Mr. Logan. I therefore recommend the adoption of this definition for net produce of garden lands."

* Diwan Bahadur M. KRISHNAN NAYAR :—"Before I submit my observation to the Council I wish to say something on this amendment of my hon. Friend Mr. Tampan. I submit, Sir, that a definition of the same expression 'net produce' has been given by my friend the hon. the Expert Member Mr. K. P. Raman Menon). He has given it as an explanation to one of the clauses that have already been passed. But, probably, it may be said afterwards that if he does not move it now he will not have the right of moving it again, so that, I submit, that that definition may also be considered now. It is in the printed amendment (copies of which, I believe, have been distributed to the Members) It runs thus :

'Clause B.—After clause B, add the following as explanation :—

"Net produce means the total produce of a holding after allowing for cost of cultivation and the Government revenue and other public charges."

"Either it may be taken as an explanation there or it may be omitted there, and taken over here. The hon. Member Mr. Raman Menon will give his reason for his amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—"We had no notice that he was going to move that amendment."

Mr. K. P. RAMAN MENON :—"With reference to this amendment there is an asterisk there and a foot-note which says :

"The hon. Member desires these amendments to be made either here or under clause 2."

Rai Bahadur T. M. NARASIMHACHARLU : "I am perfectly satisfied with the explanation."

Mr. K. P. RAMAN MENON :—"Sir, in moving my amendment it is necessary to explain what 'net produce' means. As far as I can see, there is not much difference between the definition I give and what Mr. Tampan gives, except with reference to determining the amount of expenses of cultivation. With reference to the definition I give, 'net produce' means the total produce of a holding after allowing for cost of cultivation and the Government revenue and other public charges, so that, I excluded Government revenue and public charges from net produce and I also excluded cost

[Mr. K. P. Raman Menon]

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of cultivation. Whereas, Mr. Tampan says, 'net produce' means the estimated annual yield of any land cultivated less the usual quantity of seed sown and an equal quantity for expenses of cultivation, so that he includes both the cost of seed and other charges incidental to cultivation. In some areas, the wages of cultivators are high and in some other places they are less. Especially in places where labour is not cheap the wages would be higher than the seed capacity of land and that is why I want to leave it to particular places and to particular localities to adjust themselves to the conditions. If you lay down a hard-and-fast rule, that the cost of cultivation, i.e., the wages which are paid to labourers for actually tilling and sowing the land, is equal to the cost of seed sown, it will work as a great hardship in very many places. I know of places where wages for labour are high and I myself cultivated lands in places where labour was not cheap and I had to pay much, and where labour was cheap and I had not to pay so much. So that, it is not desirable to cut down the expenses of cultivation to a figure equal to the cost of seed. That is why I have given notice of this amendment.

"With reference to hay, so far as kanam tenants are concerned, this question does not arise. As a matter of fact, I think my hon. Friend Mr. Tampan would agree with me that in most kanam deeds there is no provision for any delivery of hay. Michavaram no doubt provides for payment of oil, for payment of milk, for payment of banana and for payment of paddy. These are the chief things that we find in ordinary kanam deeds. So far as verumpattam tenants are concerned, they are asked to deliver paddy and hay, but kanam tenants are very rarely asked to deliver hay except in a very few cases. In my experience I have not found any such provisions in kanam deeds. But taking the value of hay also, it naturally belongs to the cultivator and nobody intends, at any rate, so far as kanamdars are concerned, that the janmi has a right to it. That will be too hard on the tenant. I therefore say, why not concede this concession which was a concession made by the janmis. My hon. Friend Mr. Tampan objected to it at the outset. I need not labour this point. I may state that on another occasion in calculating renewal fees I moved for the omission of the 25 per cent of the kanam and 15 per cent of the additional kanam and the substitution of one year's net produce for the renewal fee so that it may be standardized in all cases. In some cases, the renewal fee will be much higher than 25 per cent; that is why I said that according to the provision already made in the Bill, under chapter II-A it would be much higher than the renewal fee now leviable. That is why I say it is a concession. With these words I put my amendment to the Council."

* Diwan Bahadur M. KRISHNAN NAYAR :—"There is also another amendment, or rather another definition of the word 'Net produce' by Mr. Saldanha."

Mr. J. A. SALDANHA :—"I beg to move at this stage my amendment :

'Add the following as a new item after item (n).—

" 'Net produce' means the total produce of a holding after allowing for cost of cultivation and the Government revenue and other public charges ; or, if the parties concerned are not agreed as to its value, three times the annual revenue payable to Government in respect of the holding."

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[Mr. J. A. Saldanha].

"I am quite open to correction, but the principle may be accepted. We will know what the net produce will be, when the Government revenue and public charges are also known. In order to avoid dispute, let the net produce be fixed at three times the assessment and I am even quite prepared to make it five times the assessment. I would ask the House to accede to the latter portion as it would avoid unnecessary litigation and dispute. It runs thus: 'If the parties concerned are not agreed as to its value, three times the annual revenue payable to Government in respect of the holding'."

* The hon. the PRESIDENT:—"I think all the three definitions being taken up together?"

* Diwan Bahadur M. KRISHNAN NAYAR:—"I wish to point out the difference, according to my lights between these definitions: The difference between Mr. Raman Menon's definition of 'net produce' and that of my hon. Friend Mr. Tampam's 'net produce' is this. My Friend Mr. Raman Menon includes in his definition the cost of cultivation, Government revenue and other charges. My Friend Mr. Tampam does not include in his definition Government revenue and other charges. That is the main difference. In other respects, substantially, with certain exceptions that I will give presently, the two are identical. With reference to Mr. Tampam's definition, I think it will be extremely difficult to work it out in practice. What he says is that net produce of paddy lands means the estimated annual yield or gross produce of any land cultivated, less the usual quantity of seed sown and an equal quantity for expenses of cultivation, etc. In fact, this is a very indefinite expression. As a matter of fact, the quantity of seed varies according to the fertility of the soil, the area being the same and also with different localities, so that there is no such thing as the usual quantity of seed for a particular area. Then my hon. Friend says 'an equal quantity for expenses of cultivation' which again is more objectionable. It is well known that in less fertile lands the cost of cultivation is very much higher than in fertile lands, so that the quantity that is necessary for wages is not always equal to the quantity of seed. Then, Sir, my Friend says '20 per cent of hay gathered'. With reference to that, my hon. Friend Mr. Raman Menon has stated his objection that as a matter of fact the hay or straw is not referred to generally in kanam documents. As I understand it—and those who have gone to England will corroborate me—this word 'hay' means a sweet-smelling plant. What my Friend probably means is 'straw'. But that is only an objection to the word; and it is certainly better to use the word 'straw' instead of the word 'hay'.

3-45
p.m.

"With reference to the definition of my Friend Mr. Raman Menon, it is a reproduction of the definition of which my Friend Sir C. P. Ramaswami Ayyar had given notice, i.e., amendment No. 40, which runs thus: "'Net produce' means the total produce of a holding after allowing for the expenses of cultivation." I would certainly prefer, for various reasons, the definition suggested by Mr. Raman Menon to that suggested by Mr. Prabhakaran Tampam.

"The definition suggested by my Friend Mr. Saldanha is also practically the same as the Government amendment and the one suggested by Mr. Raman Menon. Only he makes an alteration in the wording and he wants to fix the net produce at three times the annual revenue. He says: 'Or if the parties concerned are not agreed as to its value, three times the annual revenue payable to Government in respect of the holding'."

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*The hon. the PRESIDENT:—"Does Mr. Saldanha wish to press his amendment?"

Mr. J. A. SALDANHA:—"I do not think there is any other alternative; because we will have a lot of litigation. To avoid litigation, I have no objection to fix it at three times. If there is a dispute, we feel that the net produce should be fixed at three times or five times the Government revenue; because, Sir, from my calculation of rents of several holdings and of the assessment which they pay to the Government, I think, the rent paid by the tenants is three times the assessment. Out of the net produce, two-sixths go to the landholder, two-sixths to the Government and two-sixths go to the tenant. The assessment is therefore one-third the net produce. Sometimes it also happens that the net produce is five times the assessment. But I would fix it at three times. There is no trouble or dispute in that case, and the janmi or landlord will be kind enough, in order not to waste his time over litigation, to accept three times assessment. I would therefore press my motion, as it is very reasonable and will avoid litigation."

* Mr. K. PRABHAKARAN TAMPAN:—"Sir, I suppose I have to speak on the three amendments together?"

* The hon. the PRESIDENT:—"Yes."

* Mr. K. PRABHAKARAN TAMPAN:—"It is a very difficult task, Sir."

* The hon. the PRESIDENT:—"The hon. Member may speak on one after the other."

* Mr. K. PRABHAKARAN TAMPAN:—"I shall first deal with Mr. Raman Menon's amendment; then with Mr. Saldanha's and then finally with mine. Mr. Raman Menon says that he practically accepts my definition, but he wants that the public charges should be deducted. It is the first time I hear that public charges should be made a charge on the net produce. What has the produce to do with the public charges, with the michavaram of the land or with any other thing? Produce means the yield. The cost of cultivation is always the exact quantity of the seed required for such cultivation. Of course in some places it will be varying; but we should not allow it for the courts to settle. I have no objection to lay down the maximum if the Council is satisfied and agrees with me that generally the cost of labour is equal to the seed required. In extreme cases, I am prepared to provide double the cost, but never allow the courts to settle the 'cost of cultivation'. There are many ryots here who have practical knowledge of cultivation. I am myself a cultivator, Sir, and I have always found that the cost of cultivation does not exceed the cost of the seed required. With regard to the seed also, one acre of land does not require more than six paras of seed for sowing. In Malabar we say an acre is ten paras and in certain places it may be eight paras of seed sowing land. It is not a reliable standard and one acre may not require more than six paras of paddy. Generally, the cost of cultivation is only that. Therefore, Sir, the safest method is to lay down the exact quantity required. If, however, the Council thinks that the cost of labour should be increased a little bit, I have no objection; but the best thing is to put down what it should be, and to prescribe a maximum also beyond which the courts cannot go. Otherwise, there will always be trouble."

"The other aspect of Mr. Raman Menon's suggestion is that the revenue should be deducted from the produce. I am against it. The Council was good enough to allow a renewal fee of one year's net produce. When the

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question of compensation came up, my hon. Friend Mr. Krishnan Nayar said: 'One year's net produce is quite sufficient.' Now, after going home and thinking over it, my Friend says that it is too much. So, he wants to reduce it a little bit. I think that that is at the back of the minds of my friends."

Mr. K. P. RAMAN MENON:—"I refer to 'net produce' under chapter II-A, clause B."

* Mr. K. PRABHAKARAN TAMPAN:—"Yes, I also refer to that. It was not in their minds then to deduct the public charges from the net produce."

Mr. K. P. RAMAN MENON:—"Sir, it was I that introduced that particular clause, and if my hon. Friend turns to the speech that I delivered in supporting that proposition, I mentioned distinctly that net produce meant the total yield of the land, minus the public charges and the cost of cultivation."

* Mr. K. PRABHAKARAN TAMPAN:—"No, it was the other way, Sir. I very well remember that he did not deduct the public charges. Therefore, Sir, what you have given with one hand should not be taken away with the other. When I went to Malabar, I was taken to task by my friends, who said that what I suggested, namely, four years' net produce as the renewal fee, was insufficient. I told them that in the opinion of this House the renewal fee fixed was very favourable to the janmi. Many a poor janmi is receiving two or three times what the Council has fixed as renewal fee; and it will practically be reducing his income now. On that ground also, I object to this."

"So far as the definition of my hon. Friend Mr. Saldanha is concerned, namely, that 'net produce' should be three times the assessment, I may say that it helps to reduce the renewal fee to a very nominal rate. I was surprised to find that Mr. Krishnan Nayar had no objection to accept it. It is entirely left to the Council to accept this amendment and reduce the renewal fee already provided, by means of this definition."

Mr. J. A. SALDANHA:—"May I ask my hon. Friend what multiple he would fix for a reasonable definition of 'net produce' from his point of view, whether he will fix it at 5 times, 10 times or 100 times?"

* Mr. K. PRABHAKARAN TAMPAN:—"If the Council is prepared to reduce the fees further, it is entirely in their hands. I don't stand in the way. I must object to the two suggestions made by my hon. Friends."

Mr. J. A. SALDANHA:—"I would only ask him, Sir, what would be the proper multiple from his point of view?"

* The hon. the PRESIDENT:—"He is not bound to say that. He is only dealing with the amendment before the House."

* Mr. K. PRABHAKARAN TAMPAN:—"I cannot say that off-hand. I must consider it, Sir. I have explained my proposal in dealing with Mr. Raman Menon's amendment and I request that my definition of the term may be accepted."

Sriman BISWANATH DAS Mahasayo:—"Mr. President, Sir, I am sorry my friend has given an amendment to define 'net produce' which, I submit, is not capable of definition. He wants to fix the maximum. I think that no maximum could be fixed for cultivation expenses or for the sowing of paddy, for various reasons which I will give one after another. All that we can do is to fix a minimum of cultivation expenses, if possible. My friend stated

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that he is a cultivator. I am also one of the biggest cultivators in my district with over 500 acres of land under my own cultivation. So, I know where the shoe pinches. In the first place, Sir, we have got rich and poor soils which require different quantities of paddy for sowing. The sowing of paddy depends also on monsoonic conditions. Supposing we have a flood and all the paddy that we have sown is washed away, then we have to sow a second time; or suppose we do not get rains for a long time after we have sown paddy. We will then have to lose all that we have sown and sow a second time, which means an additional quantity of paddy for sowing purposes. It may also mean additional labour. If you fix the quantity of paddy to be sown and an equal quantity of paddy for labour, I do not know how you can meet the difficulties of the tenants who will be always governed by monsoonic conditions. The fertility of the soil, the conditions of the monsoon, the migration of labour and the prevalent prices—all these will go a great way to add to the expenses of cultivation. Under these circumstances, Sir, I find it is not at all possible from any point of view to fix the maximum expenses for the cultivation of the soil. I believe, Sir, it is bad economy and it is most undesirable to fix it under a statute, because these are elastic, these are things which change very often, year after year and which are governed by monsoonic conditions. It is therefore desirable, Sir, that this should be left as elastic as possible. Secondly, Sir, I was surprised to see that my Friend Mr. Prabhakaran Tampan wanted to have a portion of the hay. I may inform him that in my district these are things unknown to us. I lease every year about one and a half thousand acres of land, I know of no case wherein we get a portion of hay, and I know of other inamdars and other landowners who lease large extents of lands, who get no hay. Supposing you get a portion of the hay, then what about the breeding and maintenance of cattle and buffaloes of the cultivator who cultivates the land? It will be an unfortunate day if you allow the land owner to take a portion of the hay as a matter of right and that under a statute. Under these circumstances, Sir, I request the Council to leave the definition as elastic as possible so that no injustice would be done to the landholder or to the tenant. Therefore, Sir, I oppose the motion of my hon. Friend, Mr. Prabhakaran Tampan."

* MR. K. PRABHAKARAN TAMPAN :—" Sir, before you put it to vote, I have to point out the incongruity that will arise if my Friend Mr. Raman Menon's suggestion is accepted. Under section 14 you will find 'Where lands are let on verumpattam lease after the passing of this Act, the rent payable by the tenant to the landlord shall not exceed one-third of the net produce, and the Government revenue payable thereon.' There, the term 'net produce' occurs but it does not contemplate that the revenue should be deducted because, over and above the net produce a tenant must pay the Government assessment also. Further down in section 17 (c) you will find 'that the rent payable by a verumpattam tenant exceeds two-thirds the net produce'. It is contemplated that the Government assessment should be out of the two-thirds of the net produce. If the phrase 'net produce' covers the Government assessment also, then there is no meaning in all these things. So, it has never been the idea that the net produce should cover the Government assessment."

MR. K. P. RAMAN MENON :—" On a point of personal explanation, Sir. That is exactly the reason why I mentioned in my letter to the Secretary that this may go in either as an explanation in chapter II-A or as a definition under section 2. In view of section 14 and the new section which was introduced at the instance of Mr. Prabhakaran Tampan, I say that there was

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this difficulty with reference to defining net produce. So, I said, in calculating renewal fee, it may be added as an explanation to that section. That is why I put it like that. I leave it to the House to settle whether it should be an explanation or a definition."

*The hon. the PRESIDENT :—" If it is going to be operative, what does it matter where it comes? It would govern only that section and not the other sections of the Act."

* Mr. K. PRABHAKARAN TAMPAN :—" For the purpose of section 14 you must have one definition, for section 17 you must have another definition and yet for another section, namely, the one dealing with renewal fees you must have yet another definition. That is all the absurdity."

*The hon. the PRESIDENT :—" Even if Mr. Raman Menon withdraws his amendment at this stage and introduces it as an explanation, there will be practically two definitions of 'net produce'."

Mr. K. P. RAMAN MENON :—" No new definition of net produce for the calculation of rent."

Mr. K. PRABHAKARAN TAMPAN :—" We want a definition, Sir, for the purposes of calculating rent and determining the renewal fee."

Mr. K. P. RAMAN MENON :—" For the purposes of renewal fee, it is clear as to what is meant under that section. I have not suggested any definition of net produce."

Mr. K. PRABHAKARAN TAMPAN :—" We do want a definition at least for the purpose of rent."

*The hon. the PRESIDENT :—" So; Mr. Raman Menon, I suppose, wants to withdraw his amendment."

Mr. K. P. RAMAN MENON :—" I would move my amendment as an explanation to the other section."

The motion was, by leave of the House, withdrawn.

Mr. J. A. SALDANHA :—" I would press my amendment, Sir. I would simply say that net produce means five times the revenue payable to Government. I will stop there. I find here three gentlemen who are big landholders raising all sorts of difficulties."

*The hon. the PRESIDENT :—" The terms of the amendment are 'three times' and not 'five times'."

Mr. J. A. SALDANHA :—" Very well, Sir, I will stick to 'three times'. Whatever it is, it has got some definiteness, so I would press my amendment that net produce standing by itself means three times the annual revenue, etc."

Mr. C. V. VENKATARAMANA AYYANGAR :—" If it is agreed on all sides of the House that it should be five times, I think it may be fixed at five times. It may be a new one but I think you will allow it."

*Mr. K. PRABHAKARAN TAMPAN :—" I really cannot understand the intentions of my hon. Friend, Mr. Saldanha."

Mr. J. A. SALDANHA :—" I think I have got the permission of the House to make it three times to prevent further confusion."

*The hon. the PRESIDENT :—" The hon. Member wants to omit also the intervening portion."

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Mr. J. A. SALDANHA :—"I would draw the attention of the House to section 17 (c). There the following sentence occurs: 'that the rent payable by a verumpattam tenant exceeds two-thirds the net produce'."

Mr. C. V. VENKATARAMANA AYYANGAR :—"If you have no objection, Sir, I will formally move that the words 'five times' be substituted for the words 'three times'. It seems to be agreeable to a large portion of the House. To put an end to the trouble, I think you will permit it, Sir."

* Mr. K. PRABHAKARAN TAMPAN :—"I object, Sir."

The hon. the PRESIDENT :—"I must uphold the objection."

* Mr. J. A. Saldanha's motion was, by leave of the House, withdrawn.

* Diwan Bahadur M. KRISHNAN NAYAR :—"The hon. Member Mr. Raman Menon has withdrawn his amendment to be moved as an explanation later on. I may say this with reference to Mr. Prabhakaran Tampam: but I do not know if he will agree to it. As submitted before, it seems to me that the Government amendment is better than his. The Government amendment No. 40 says: 'Net produce means the total produce of a holding after allowing for the expenses of cultivation'. That seems to me to be a better definition. Then I would suggest to my friend that instead of having 'hay' it is better to use the word 'straw'. I do not know if he is going to insist on keeping the word 'hay'."

Mr. K. PRABHAKARAN TAMPAN :—"Why not?"

Diwan Bahadur M. KRISHNAN NAYAR :—"At least for the reputation of a Council which passes this."

Mr. J. A. S. SALDANHA :—"I suggest, Sir, some Malayalam word may be used."

* The hon. the PRESIDENT :—"So, there is only Mr. Prabhakaran Tampam's amendment before the House . . ."

Mr. K. PRABHAKARAN TAMPAN :—"I have no objection to insert 'straw' in place of 'hay'. I really did not know the difference."

The amendment was put to the House and declared lost. A poll was demanded and the House divided thus:—

Ayes.

- | | |
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| 1. Mr. S. Arpudaswami Udayar. | 5. Dr. P. Subbafayan. |
| 2. „ K. Prabhakaran Tampam. | 6. Mr. G. Rameswara Rao. |
| 3. „ V. Madhava Raja. | 7. S. R. Y. Ankineḍa Prasad Bahadur. |
| 4. Rao Bahadur O. M. Narayana Nambudripad. | 8. Rai Bahadur T. M. Narasimbacharlu. |

Noes.

- | | |
|--|--------------------------------------|
| 1. Mr. K. P. Raman Menon. | 9. Honorary Lieutenant Madurai. |
| 2. Rao Bahadur C. Natesa Mudaliyar. | 10. Mr. T. Mallesappa. |
| 3. „ M. C. Raja. | 11. „ P. N. Marthandam Pillai. |
| 4. Mr. N. Iyendrudu. | 12. Rao Bahadur B. Muniswami Nayudu. |
| 5. „ L. C. Guruswami. | 13. Diwan Bahadur P. Kesava Pillai. |
| 6. Rao Bahadur K. Krishnaswami Nayudu. | 14. Srikanth Des Mahasayo. |
| 7. Mr. J. Kuppuswami. | 15. Mr. A. Chidambaram Nadar. |
| 8. „ R. Madanagopal Nayudu. | 16. „ C. Gopala Menon. |

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Noes—cont.

17. Diwan Bahadur M. Krishnan Nayar.
 18. Rao Bahadur P. Raman.
 19. Rao Sahib R. Srinivasan.
 20. Mr. R. Veerian.
 21. „ K. Venkatachala Padayachi.

22. Sriman Sasibhushan Rath Mahasayo.
 23. Mr. T. M. Moidu Sahib Bahadur.
 24. „ L. K. Tulasiram.
 25. „ K. Uppi Sahib.

Ayes 8, Noes 25.

The amendment was lost.

The other amendment of Mr. K. Prabhakaran Tampan, viz.,

“ *Net produce* ” of garden lands means three-fourths of the annual yield ’ 4-15
 was then put and lost. p.m.

Clause 2, as amended, was then put, passed and added to the Bill.

Preamble.

Rai Bahadur T. M. NARASIMHACHARLU :—“ Sir, I move amendment No. 2, which stands in my name, viz.,

‘ In line 1, for the word “ define ” substitute the word “ repeal ”.’

Then, it will read :

‘ Whereas it is expedient to repeal in certain respects, amend and declare the law relating to landlord and tenant in the Malabar district: It is hereby enacted as follows :—’

* The hon. the PRESIDENT :—“ Is there a law relating to Malabar ? ”

Rai Bahadur T. M. NARASIMHACHARLU :—“ Yes, Sir. The court-made law. It is recognized by jurisprudence. Just as we have Hindu Law, Muhammadan Law, we have with reference to Malabar a law. What we want now to do is to repeal that law, and if so let us be straightforward and honest to put it so, instead of saying that you are defining the law.”

* The hon. the PRESIDENT :—“ I feel a difficulty in regard to this matter. The hon. Member speaks of judge-made law evidently, and how can the legislature repeal a judge-made law ? ”

Rai Bahadur T. M. NARASIMHACHARLU :—“ Yes, that is the law now in force. The law may be a statutory law, judge-made law, or customary law. Custom is recognized as law ; that is so far as Malabar law is concerned, the courts have declared that this is the law with reference to kanams, and what we are now to do is to repeal that law, and say, ‘ Hereafter the High Court will not follow any precedent.’ ”

* The hon. the PRESIDENT :—“ This Council has no jurisdiction over judge-made law. Generally when a legislative body repeals an enactment, it repeals its own laws. I must rule the hon. Member’s amendment out of order.”

* Mr. K. PRABHAKARAN TAMPAN :—“ Sir, my amendment, viz.,

‘ In line 2, after the word “ tenant ” insert the words “ and to give permanent right of occupancy to the cultivating tenants and holders of homesteads ”.’

requires a little alteration in view of the sections that we have already passed. Therefore, I will suggest that instead of the words ‘ and to give permanent right of occupancy to the cultivating tenants and holders of homesteads ’, the words ‘ to give permanent right of occupancy to certain classes of tenants ’ be inserted there, if you will permit me, Sir.”

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* Diwan Bahadur M. KRISHNAN NAYAR :—" That is a new amendment, and I object to it."

* Mr. K. PRABHAKARAN TAMPAN :—" That is not a new amendment. The Bill proposes to give occupancy right to cultivating kanamdars and certain other classes of noncultivating tenants. There are two or three categories of tenants to whom occupancy right has been given in this Bill, under clauses 6 and 7. So, I wish to make my amendment consistent and say 'to give permanent right of occupancy to certain classes of tenants', instead of saying 'to give permanent right of occupancy to the cultivating tenants and holders of homesteads.' I think my amendment is perfectly all right."

* The hon. the PRESIDENT :—" Is that a consequential amendment to the amendments made in clauses 6 and 7?"

* Diwan Bahadur M. KRISHNAN NAYAR :—" It may or may not be consequential. But my hon. Friend had ample opportunities of giving notice of his amendment after clauses 6 and 7 were passed. Clauses 6 and 7 were passed on the 15th of July and we rose on the 17th. It was only after that that my hon. Friend, Mr. Prabhakaran Tampam, gave notice of certain amendments to the clauses already passed; so that, my hon. Friend had ample opportunity to give notice of his new amendment, if he was serious about it; and instead of doing that, because he now finds that the amendment of which he has given notice cannot be moved as it stands on the notice paper, viz., 'to give permanent right of occupancy to the cultivating tenants and holders of homesteads', he brings forward this new amendment, as a substitute for his original amendment."

* The hon. the PRESIDENT :—" It does not exclude the clauses provided for."

* Diwan Bahadur M. KRISHNAN NAYAR :—" That may be or may not be. We must have some time to think of those things, and I believe that the preamble of an enactment is not a trifle to be altered by any amendment thrown in the face of the Council at any time. I take it as a serious part of the whole Bill. I want ample notice of it, and I object very seriously and strongly to it."

* Mr. T. R. VENKATARAMA SASTRIYAR (*Advocate-General*) :—" Sir, I cannot understand the objection to this motion. The Mover himself says: 'I am moving the amendment which stands in my name but having regard to the events that occurred, some alteration might be necessary'. Suppose, the Mover did not recognize the alterations in the sections and insists on 'moving his original amendment, and then somebody else in the Council did stand up and say 'It requires an alteration having regard to the amendments already passed in Council', then the matter will have to be considered. I do not see any objection to the moving of the amendment, by reason of the fact that certain tenants have got occupancy right."

* Mr. K. PRABHAKARAN TAMPAN :—" My amendment was on the agenda paper so early as in February last. It is a substantive amendment, and so I thought there was no need to send in any notice. It does not affect the clauses that have already been passed by the Council. I really cannot appreciate his point when Mr. Krishnan Nayar says that he objects to this."

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A matter of fact, the essential principle of the original amendment is not in the least affected. It is only a kind of consequential amendment, and consequential amendments are made at any stage."

* The hon. the PRESIDENT :—"Then, why not leave it to the third-reading stage?"

* Mr. K. PRABHAKARAN TAMPAN :—"I have, no objection. If, on the other hand, you now want me to move my amendment as it is on paper, I will do it."

* The hon. the PRESIDENT :—"There is no objection to moving it."

* Mr. K. PRABHAKARAN TAMPAN :—"Then, I move the amendment :

'In line 2, after the word "tenant" insert the words "and to give permanent right of occupancy to the cultivating tenants and holders of homesteads".'

"Sir, the preamble as it emerged from the Select Committee reads thus :

'Whereas it is expedient to define in certain respects, amend and declare the law relating to landlord and tenant in the Malabar district ; It is hereby enacted as follows' :

"That is not what you are doing. What you are doing is introducing a radically new measure. Giving occupancy right is not covered by the words that you are amending or declaring the law in Malabar in relation to landlord and tenant. You are doing a new thing unheard of and undreamt of in Malabar. Then, why don't you be honest and straightforward and say what you are doing in the preamble itself? Instead of saying so, you say you are simply amending or declaring the law. The best thing and the honest way of doing things is to declare in the preamble itself what you are doing. If the Council thinks that it is expedient to give occupancy right to certain tenants, why not say so? Why all this insidious way of doing things? I think it is seriously objectionable. There is no harm in saying to the world what you are doing. You may perhaps say that janmis' rights are restricted. What you are going to do must be set out in the preamble itself, instead of saying vaguely that you are defining or declaring the present law. Therefore, say plainly that you propose to give occupancy right to certain classes of tenants. It is with that object, I brought forward this amendment, and I move it."

Mr. V. MABHAŶA RAJA :—"I second it."

* Diwan Bahadur M. KRISHNAN NAYAR :—"My hon. Friend himself when he wanted to substitute another amendment for this amendment admitted that it did not fit in with the clauses contained in the Bill. As a matter of fact, with this amendment, the preamble will read thus :

'Whereas it is expedient to define in certain respects, amend and declare the law relating to landlord and tenant and to give permanent right of occupancy to the cultivating tenants and holders of homesteads in the Malabar district : It is hereby enacted as follows' :

"But we have right of occupancy to other tenants also, besides cultivating tenants and holders of homesteads. Obviously, my hon. Friend himself felt, and felt rightly that the preamble as it would stand would be inconsistent with the clauses of the Bill, and I have nothing more to say on it."

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Mr. K. P. RAMAN MENON :—“ Mr. President, Sir, it has been the consistent attitude of the hon. Member representing the janmis to make it appear that he belongs to an injured class, that is, that this House is a body of spoliators (Mr. K. Prabhakaran Tampan : ‘Hear, hear’) that, this House without any regard to the justice of their claims is depriving them of their rights, and this amendment is on a par with the other pieces of manoeuvre which he has been making on the floor of this House all these days.”

Mr. K. PRABHAKARAN TAMPAN :—“ Is manoeuvre ‘parliamentary, Sir?’ ”

* The hon. the PRESIDENT :—“ Oh, yes. Very parliamentary.”

Mr. K. P. RAMAN MENON :—“ From the very ‘stage’ in the Select Committee when there was a most dramatic exit of the janmi representatives to the present moment, his attempt has been to make out that we have deprived them of their rights without any thought. The preamble simply says to ‘amend and declare the law relating to landlord and tenant’, a declaration which is wide enough to include anything and everything that is contained in the Act. By introducing those words in his amendment, he thinks he can pose before the public and before the Government as a martyr, as a victim of circumstances, as a victim of the tactics of the tenants, a victim of persons in this House who are absolutely reckless, who are absolutely thoughtless of other people’s rights. It is with a view to expose this manoeuvre on his part that I rose to speak on this occasion, Sir.”

Mr. L. K. TULASIRAM :—“ Sir, in a conflict between janmis and tenants, it is only proper that I should explain why I am obliged to stand up now. It is because the preamble is the portion which gives a summary what the Act contains. Perhaps the representatives of janmis want to make it appear that the sting lies in giving permanent occupancy right to tenants. In all preambles relating to any law, naturally we find only a statement saying that it is a law governing such and such a matter. They do not include all the headings of the chapters in the enactment. So far as giving permanent right of occupancy to cultivating tenants is concerned, it is only a very small portion of the law relating to the landlord and tenant in Malabar.”

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p.m.

“ I do not see any reason except the malicious pleasure—I hope my learned Friend will excuse me—of pointing out to the world that these janmis have scored a victory by getting permanent rights of occupancy to the cultivating tenants and appealing to the sympathy of the kanamdars and see that the Bill is not passed into law. We, as Members of this hon. House, are responsible for the wording of the preamble. No doubt in a fight between the janmis and the tenants I could have left them alone, but as a Member of this House I should protest that these words are superfluous and unnecessary and that they are purposely introduced there with some object to which I object.”

* Mr. V. MADHAVA RAJA :—“ I support Mr. Prabhakaran Tampan’s amendment, because he simply wants the House to add in the preamble of the Bill what has been provided for in the Bill as passed by the Council so that any one can understand by reading the preamble what the Council has done. It is nothing but fair to add these words in the preamble. To say simply ‘declare the law relating to landlord and tenant in the Malabar district’ is misleading. It may be all right if there is now no law in Malabar relating to this. But that is not the case. There is already a law in force. When the Bill was being framed, lots of people said that this is a Bill

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intended to give permanent rights of occupancy to the ryots. Instead of stating that in the preamble, it is simply stated, 'declare the law relating to landlord and tenant . . .'. I think it is really unfair. I therefore strongly support the amendment now before the House and request the House to pass it."

Mr. K. PRABHAKARAN TAMPAN:—"Sir, I shall deal with malicious pleasure' and 'manœuvring' later. The only arguable point was the one advanced by Mr. Krishnan Nayar that it does not cover all classes of tenants. But as I said in the beginning, I may be given an opportunity when consequential amendments are moved to improve that position. No reason has been adduced why this amendment of mine cannot be accepted."

The motion was put and lost.

The preamble was then put to the House and passed.

* Diwan Bahadur M. KRISHNAN NAYAR:—"There are certain amendments to clauses that have been already passed."

* The hon. the PRESIDENT:—"The hon. Member will have to move that the Bill be passed into law."

* Diwan Bahadur M. KRISHNAN NAYAR:—"I shall move that. But may I know from you the order that you wish to lay down for the guidance of the House?"

* The hon. the PRESIDENT:—"After the hon. Member moves his motion and it is seconded, the consequential amendments will be taken up."

* Rao Bahadur C. V. S. NARASIMHA RAJU:—"Before my hon. Friend moves the third reading of the Bill, may I suggest to him as a piece of advice that if he now moves for the third reading of the Bill and if any Member objects, you, Sir, will have to suspend Standing Order 49 (3), or in case you uphold the objection, then it is to be put off for three days and thereafter when the Bill is taken up the amendments can be moved. If my hon. Friend wants to proceed with the Bill to-day, he can have the third reading but we cannot take up the amendments at this stage to-day. Because, Standing Orders do not provide for any amendment being introduced to-day if the motion for the third reading is made by him and you disallow the objection."

* The hon. the PRESIDENT:—"We have only half an hour more for the House to adjourn. We might take up the Bill on Tuesday."

* Diwan Bahadur M. KRISHNAN NAYAR:—"I wish to have the kind attention of my Leader the hon. the Raja of Panagal also to what I am going to say and of course the attention of my hon. Friend, Mr. Moir. There is the possibility, as my hon. Friend Mr. Narasimha Raju stated, that any Member may object to the motion for the third reading being made immediately after the second stage is over because some amendments have been carried. If objection is raised, unless you are prepared to suspend the Standing Order 49 (3), this can be brought forward only three days after the second reading is over. So, on Wednesday this can be taken up for the third reading when no Member will have any right to object. On Wednesday, the hon. the Leader of the party in power has requested you and you have arranged for the consideration of the Endowments Bill, and by Wednesday morning three days will have also elapsed. So that, if my hon. Friend the Raja of Panagal and my Friend the hon. Mr. Moir will kindly consent to

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this suggestion, namely, that this Bill may be taken on Wednesday for third reading, it will remove all legal obstacles from my way in respect of the third reading of the Bill. The whole thing, I think, will be over in about two hours' time."

* The hon. the PRESIDENT :—"What about the allotment of non-official days? There are only three days."

* Diwan Bahadur M. KRISHNAN NAYAR :—"Only one day is over now."

The hon. Mr. T. E. MOIR :—"Perhaps I may say that so far as the technical objection that any Member may take to this motion being taken up on Tuesday on the ground that three days should elapse after the previous stage of the Bill is concerned, the Government, though they cannot ask other Members of the House to do so, have no desire to use that privilege, and we certainly have no desire to lay any obstacle of that kind in the way. I may add, as far as our influence extends, we will appeal to other Members of the House to treat the matter in the same way, so that there will be no difficulty in that case about the further progress of this Bill being taken on Tuesday."

* Mr. K. PRABHAKARAN TAMPAN :—"On behalf of myself and my friends, I may say that we have no objection to the Bill being taken up on Tuesday."

* The hon. the PRESIDENT :—"The Leader of the Opposition can give such a consent?"

* Rao Bahadur C. V. S. NARASIMHA RAJU :—"There is no question of consent. If you want to move any amendment during the third reading the hon. Member shall have to make the motion for the third reading to-day and request you to suspend the Standing Order."

* The hon. the PRESIDENT :—"Only if any Member objects?"

* Rao Bahadur C. V. S. NARASIMHA RAJU :—"As soon as the objection is made, the motion can only be taken up on Wednesday and not on Tuesday. There is that technical difficulty."

* The hon. Mr. T. E. MOIR :—"I wish to intimate that the Government have no intention of opposing the suspension of the Standing Order to take the third reading on the same day."

The hon. the PRESIDENT :—"So, what is the proposal now?"

* Diwan Bahadur M. KRISHNAN NAYAR :—"I did not of course mean to say that the Government had any intention of putting any obstacle; on the other hand, I know they have given an undertaking already that they would facilitate the third reading of the Bill. But what I am anxious about is this: that there should not be any doubt cast upon the validity of this Bill after it is ultimately passed by this House. What Standing Order 49 (3) says is:

'Where the objection prevails, the Bill shall not be brought forward earlier than three days from the day on which the consideration of the Bill was concluded in Council; and may then be passed with or without further amendment'.

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p.m.

"My Friends have given notices of some amendments. These amendments will not take much time, and they will have to be moved and the earliest time at which they can be moved is Wednesday. If my hon. Friend, the Raja of Panagal, and my hon. Friend, Mr. Moir, agree to this, these amendments can be taken up as the first thing on Wednesday and finished before lunch time."

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* The hon. the PRESIDENT :—" There is also the other difficulty, i.e., that the House had adjourned the consideration of the Hindu Religious Endowments Bill. "

* Diwan Bahadur M. KRISHNAN NAYAR :—" This Bill may be taken up on Wednesday before that. I understood the hon. the Raja of Panagal to say that he had no objection. "

* Mr. T. R. VENKATARAMA SASTRIYAR (*Advocate-General*) :—" Standing Order No. 49 permits of a third reading of a Bill at the same sitting and the President may be asked to suspend the Standing Order which requires that three days should be given for that motion to be made. Ordinarily if the Bill is passed without any amendment or with very unsubstantial amendments and there is no necessity to move any further amendments, it can be moved at once, and the President may be asked under that Standing Order to waive the necessity for three days' notice. In such a case at the third reading there is no question of moving any further amendments consequential or otherwise. But if objection is taken and if amendments have to be passed the last portion of that Standing Order 49 says that the Bill can be brought up three days later and passed with or without further amendments, so that if further amendments have to be moved they will have to be moved after the lapse of three days mentioned in the order. There is some doubt as to what three days means. Three days' notice is quite different from three clear days' notice. Three days' notice may be satisfied if the Bill is taken up on Tuesday but I am not quite clear about it. My recollection is that there is distinction between *three days' notice* and *three clear days' notice*. Three clear days' notice excludes the day on which the proceedings were closed so that three clear days must elapse after the day on which the proceedings were closed and before the Bill is taken up again. So that three days must elapse and you cannot move the motion earlier. But it is not good perhaps to rely on doubtful points at a stage at which you can rectify them without giving any room for doubt. It is perhaps safer to take the matter on Wednesday as amendments have to be moved. "

* Diwan Bahadur M. KRISHNAN NAYAR :—" I shall formally move my motion in one word now. I shall make my speech in about ten minutes on Wednesday and amendments may then be moved. If we adopt this procedure there is no possibility of doubt as to whether the Bill will be valid or not. "

* The hon. Mr. N. E. MARJORIBANKS :—" It has already been arranged that the Hindu Religious Endowments Bill should be taken up as the first item on Wednesday. I am not so optimistic as my hon. Friend, Mr. Krishnan Nayar, as to the length of time the third reading of his Bill will take up. I think it is possible it will take one day judged from the time that has been taken hitherto. To avoid any irregularity in the matter, I would suggest that it might be taken up after the Hindu Religious Endowments Bill has been disposed of. Tuesday is a non-official day, and if it is thought desirable I submit that the Malabar Tenancy Bill may wait till the next non-official day. "

* Diwan Bahadur M. KRISHNAN NAYAR :—" I want to be frank to the hon. the Leader of the House and also to my other friends. It is now clear that the law will throw obstacle in my way. My motion has to be brought in on Wednesday or Tuesday. There are many gentlemen on the opposite side

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of this House who are interested in passing the Hindu Religious Endowments Bill. We, the Ministerial Party, are interested in supporting it. So all of us shall be present for that Bill. But for a private measure like mine many of the Members of this House are not interested, and if it is not passed either on Tuesday or Wednesday there will be hardly even a quorum afterwards. In any case the Religious Endowments Bill will take more than five or six days and if my Bill is to be taken up afterwards practically there will be none in the House. So I would earnestly request the hon. the Leader of the House and the hon. the Raja of Panagal to give us a short time on Wednesday. So far as I am concerned, I shall not take up more than 10 minutes, and I do not think the other Members of the House are going to occupy much time."

The hon. the RAJA OF PANAGAL :—" May I point out that if the request of my hon. Friend is to be complied with, there is the other risk, namely, that if my Bill is not reached on Wednesday it may have to be dropped. There is that risk."

Mr. C. V. VENKATARAMANA AYYANGAR :—" I think that this Malabar Tenancy Bill will lapse on Wednesday if it is not taken up on that day."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" The other day the hon. the Leader of the House said that Friday, Saturday and Tuesday shall be non-official days. The Irrigation Bill was under discussion on Friday and therefore it cannot be considered a non-official day. Therefore one day besides Saturday and Tuesday is due to non-official business. So it is in the hands of Government to allot it or not. The hon. the Raja of Panagal says that if the Hindu Religious Endowments Bill is not taken up on Wednesday it will lapse. I would suggest one course, namely, that the Hindu Religious Endowments Bill be taken up on Wednesday and if the Government considers Thursday as the non-official day we may attend to the Malabar Tenancy Bill on that day and in the following days. It is a matter which has to be decided by the Government."

The hon. the RAJA OF PANAGAL :—" In other words during the time when the Hindu Religious Endowments Bill is taken up for consideration, one day will have to be set apart for non-official business."

The hon. Mr. N. E. MARJORIBANKS :—" We will have to keep Wednesday as an official day and any new arrangements may be arrived at on that day in the light of what may happen. But I do not think we can now alter the date already fixed by the House for the Hindu Religious Endowments Bill."

Diwan Bahadur M. KRISHNAN NAYAR :—" I do not think we can leave the matter at that nebulous stage. If my hon. Friend, the Raja of Panagal, agrees to my suggestion, I propose that my Bill may be taken up as the first item on Thursday. It will not exceed the lunch time; so that I formally move that it may be taken up as the first item on Thursday."

The hon. the RAJA OF PANAGAL :—" I have no objection to Thursday being allotted for non-official business."

Diwan Bahadur M. KRISHNAN NAYAR :—" I move, Sir, that the Bill be passed into law. I have to speak for about ten minutes and request you to allow me to make that speech on Thursday."

5 p.m. Mr. J. A. SALDANHA :—" I beg to second it."

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Rao Bahadur C. V. S. NARASIMHA RAJU :—" I object to the third reading of the Bill to-day as a number of amendments are made to it."

* The hon. the PRESIDENT :—" I uphold the objection raised by Mr. Narasimha Raju."

Diwan Bahadur M. KRISHNAN NAYAR :—" I move that the further consideration of the Bill be taken up on Thursday."

* The hon. the PRESIDENT :—" It is not necessary. Automatically the consideration of the Bill is postponed to three days after."

Diwan Bahadur M. KRISHNAN NAYAR :—" I want to make it certain as the hon. Mr. Moir, the hon. the Leader of the House and the hon. the Raja of Panagal said whether this will be taken up as the first item on Thursday."

* The hon. the PRESIDENT :—" No motion is necessary for it."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" Now, it is settled that Tuesday and Thursday will be non-official days. The work will be arranged according to the result of the ballot and if my hon. Friend wants to pass over any items of business to come to his Bill he will have to make a motion on Thursday and that has to be seconded and passed."

The House adjourned at 5.2 p.m. to meet again at 11 o'clock on Tuesday, the 31st August 1926.

R. V. KRISHNA AYYAR,
Secretary to the Legislative Council.

APPENDIX I.

[Vide answer to question No. 2399 asked by Mr. K. Raghuchandra Ballal at the meeting of the Legislative Council held on the 28th August 1926, page 313 supra.]

AGREEMENT made the twenty-eighth day of May one thousand nine hundred and twenty-one (1921) between Dharma Samraja the owner for the time being of the inner courtyard of the Chowter's Palace at Mudabidri, Marpadi village, in the Karkal taluk of the South Kanara district, hereinafter referred to as "the owner" which expression where the context admits shall be deemed to include the survivor of him or other the owners or owner for the time being of the said inner courtyard of the Chowter's Palace, their and his assigns of the one part and the Right Honourable the Secretary of State for India in Council, hereinafter referred to as "the said Secretary of State" which expression where the context admits shall be deemed to include his successors in office for the time being of the other part.

WHEREAS under section 3 of the Ancient Monuments Preservation Act, 1904 (Act VII of 1904) the inner courtyard of the Chowter's Palace at Mudabidri specifically described in the schedule annexed hereto and hereinafter referred to as "the protected monument" has been declared by the Government of Madras to be a protected monument under the said Act.